

SURVEY OF CONDITIONS OF THE INDIANS IN THE UNITED STATES

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

SEVENTY-FIRST CONGRESS

SECOND SESSION

PURSUANT TO

S. Res. 79 (70th Cong.)

A RESOLUTION DIRECTING THE COMMITTEE ON INDIAN
AFFAIRS OF THE UNITED STATES SENATE TO MAKE
A GENERAL SURVEY OF THE CONDITION OF
THE INDIANS OF THE UNITED STATES

S. Res. 308 (70th Cong.)

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SURVEY OF INDIAN CONDITIONS

NEW YORK INDIANS

PART 12

MARCH 1, NOVEMBER 25-26, 1929
JANUARY 3, 1930

Printed for the use of the Committee on Indian Affairs

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1931

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SURVEY OF CONDITIONS OF THE INDIANS IN THE UNITED STATES

FRIDAY, MARCH 1, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
Washington, D. C.

The subcommittee met, pursuant to the call of the chairman, at 10 o'clock a. m., in the room of the committee in the Senate Office Building, Senator Lynn J. Frazier presiding.

Present, Senators Frazier (chairman), Pine, Wheeler, and Thomas of Oklahoma.

The CHAIRMAN. The hearing will come to order. This hearing was called especially to hear, or at least at the request of, Mr. and Mrs. Kellogg, from New York State. They have been down here for some time, and have insisted on a hearing, and we are glad to give them a hearing; but this is called at their request, and especially for the purpose of hearing them and some other witnesses that they have here. The first witness on this list I have is Mrs. Laura C. Kellogg.

TESTIMONY OF MRS. LAURA CORNELIUS KELLOGG

(The witness was sworn by the chairman.)

The CHAIRMAN. Kindly give your full name and address to the reporter.

Mrs. KELLOGG. Laura Cornelius Kellogg, Seymour, Wis., and Syracuse, N. Y. I am of the Oneida Nation.

I come before you, gentlemen of the committee, with what I have to say condensed into three parts. I represent the Six Nations of New York. I am executive secretary of the Six Nations.

The CHAIRMAN. Very well, proceed.

Mrs. KELLOGG. The first part deals with the serious situation among the Six Nations of New York, created by the fact that the Six Nations have valuable properties which are being thrown into jeopardy because those who covet them are using powerful political means and propaganda to oust them from their rights, and because the Six Nations, while they offer a tenacious resistance, are not properly protected. They are a people who have wonderful traditions, who are organized, and who have a superior legal status peculiar to Indian relations; one which they have faithfully kept, and one which entitles them to the highest protection in the land, the protection of the United States Government.

I shall attempt to show how, historically, they became entitled to this protection; how the courts and the Six Nations interpret that protection and what has been their experience lately in seeking it.

Secondly, I shall present an Indian reconstruction program which the Six Nations have adopted for their own rebuilding and which I believe solves every other Indian problem in the land.

Thirdly, I shall show in detail how the Six Nations contemplate carrying this out.

Now, I am going to offer here, Senator Frazier, a history of the Six Nations, which is too long to read this morning.

The CHAIRMAN. Very well; it will be printed in the record.

(The statement referred to will be found printed at the end of this day's proceedings.)

Mrs. KELLOGG. I am going to proceed into the heart of the reasons why we are here, introducing it only with such bits of history as are connected with the treaty relations between the Six Nations and the United States Government, upon which a lot of their troubles are hanging.

Here are a group of Indians, 16,000 in all, occupying some 78,000 acres in reservations—in New York or colonized in small groups in Western States and in Canada. Their legal status is peculiar to Indian relations. They have a treaty with the United States Government which gives them the status of an independent protectorate of the United States under this treaty of 1784, confirmed and added to in the treaty of 1789. They are a protected autonomy, with the title of the original territory vested in them, and United States protection absolutely guaranteed to them. In specific language the United States ceded all right and title to them to territory they reserved to themselves out of their Iroquois domain, in return for their ceding all right and title in the Ohio Valley to the United States Government.

This peculiarity of status came from remarkable circumstances. In the first place, the Six Nations Iroquois had a superior social order, a civilization of their own when the white man came.

According to our own history, corroborated by Spanish, French, English, and Dutch historians, their domain extended from Canada as far as Montreal and the Great Lakes to the Carolinas, Florida, and west to the Mississippi and Tennessee, with an irregular eastern boundary running into the southern part of the New England States. They had acquired this territory by conquest from other tribes, and they had many tribes under their protection from whom they collected tribute in kind.

Prior to the Revolution they met and treated with foreign nations as do other nations of the world. They sold the most of this territory to the Dutch and the English and Pennsylvania, giving the warranty deed in each instance. They reserved for themselves and their posterity in their last transaction with the English in 1768, a tract containing some 18,000,000 acres in the States of New York and Pennsylvania plus the Ohio Valley set aside by the English survey known as the Sir William Johnson line of property in their last treaty with Great Britain prior to the Revolution. The Revolutionary War came on, and with the experience of the English people in the French and Indian War, where one of their historians truth-

fully said of the Six Nations' part in it, "Our victories are purchased at the expense of their blood," both Great Britain and the United Colonies solicited for their assistance.

Both were able to get some, though the majority of the Six Nations remained neutral. Early in the war the English, who through the late Sir William Johnson had a great hold on Gen. Joseph Brant, were able to get the alliance of those who would follow Brant.

Upon this break in their ranks, the Oneidas pleaded with the Six Nations that they could end the war by allying themselves with General Washington.

However, the Six Nations said, "This is a conflict between father and son. We have been friends to both; we will take part in the conflict between them on neither side."

However, as time went on, as the Revolutionary conflict became intense and it was fought over their territory, the Oneidas were nearly wiped out by General Butler in one of their villages. They broke neutrality on this occasion immediately, and took with them all the fighting men they had and those of the Stockbridges and Brothertons, their adopted people, and those of the Tuscarora Nation. Your historians say that the Revolutionary War was won with the help from these people. The relations between the Six Nations and the people of the United States followed.

Some years after the treaty of 1784 was concluded, the State of New York, despite the constitutional provision against any State making separate treaties with other nations, made separate treaties with the individual nations of the Six Nations; fraudulently and criminally over the protest of General Washington to Governor Clinton these transactions went on. Rum was used to get the signatures of individual Indians, who in many instances were nearly white men and who had no authority or ability to sell. The United States Government, however, has never O. K'd. one of these transactions.

Out of these 18,000,000 acres that the Six Nations had reserved for themselves out of their enormous domain, together with the Ohio Valley, there is left to-day only 78,000 acres in the State of New York in their small reservations; and now they are being threatened with eviction practically from their homes in these small reservations.

Mr. MERITT. May I ask by whom?

Mrs. KELLOGG. Yes; I am going to tell that. At this moment the citizens of Syracuse have introduced a bill in Albany—with the assistance of your Commissioner of Indian Affairs, so they claim—whereby these citizens are going to take these lands from the Onondaga Indians, which form a tract 4 miles square, near Syracuse.

The CHAIRMAN. Who is going to take it?

Mrs. KELLOGG. The State of New York—citizens of Syracuse through the State of New York.

The CHAIRMAN. Yes; with authority?

Mrs. KELLOGG. They are soliciting the government of the State to help them secure a dam site on the Onondaga Reservation, which would mean the flooding out of the Onondagas, because it is the most economical way that the city of Syracuse can protect itself from the flood waters of Onondaga Creek.

As a matter of fact, I think Mayor Hanna has been down here to consult with Commissioner Burke on this question, I am informed, and in that case the citizens have gone to the Onondagas and spoken to them and told them that they were going to get this over there for \$15 an acre, because they had the Commissioner of Indian Affairs to assist them get it.

Now, we want to call the attention of this committee to the fact that the Commissioner of Indian Affairs has no just and proper relations with the Six Nations Indians. Under their treaty of 1784 there was never a hint of their being brought under any kind of control under a bureau. They had the right of self-determination that the bureau would necessarily cut off. They have never subsequently made any different arrangement with the United States Government themselves. So that the original agreement of 1784 stands as it was made, to-day.

We, of course, are very solicitous of this committee that some sort of protection be given us at this particular moment, because if we are not helped all of these influences which have started since six years ago to oust us out of our rights will continue, depriving us of our right of self-determination with the connivance of the Bureau of Indian Affairs. The very moment that the Six Nations introduced a program of self-reconstruction there, an enormous propaganda was brought on, with paid agents, we do not know of whom, whether by the States or whether these individual politicians who are interested in the lands we wish to recover, or whether it is with the direct understanding between them and the bureau. We do know this, that every influence which can approach the Six Nations, and that has done so, has gone to the bureau and gotten the sanction of the bureau for assistance on their side. We do know that the bureau reaches out clear to Canada in its sinister suggestions as to what shall be done to those of us who are trying to exercise our autonomy. I want to say, in connection with this experience, that I, personally, with other citizens of the Six Nations, was arrested like an ordinary thief and brought before a foreign court, in Canada, and the arrest was based upon the fact that the Six Nations people were located, a part of them, in Canada, before there was a white man on this continent, and that these same groups of the Mohawks were still on that side of the St. Lawrence, on that side of the survey that divided them into Canada, later, under the Jay treaty, when they were United States subjects.

This state of affairs we do not recognize, because there is only one relation which we do recognize, and that is that relation between us and the Government of the United States of 1784. All others have been fraudulently gotten.

This status allows the Six Nations in their reconstruction program to go to any part where their citizens may have gone, whether it be over the Canadian border or in Oklahoma or Kansas or any other State where they may have been colonizing, and solicit through their council the assistance under this reconstruction program, about which I am going to speak later, because it has relation to the enormous litigation we started.

We were arrested in Canada on the ground that we were soliciting money under false pretenses, and that there was a conspiracy to

defraud the Mohawk people who, through their councils, had accepted our proposal and had assented to the levies made for this particular purpose, which in each instance were not exorbitant. A propaganda was started on the ground that here were these thieves who were filling their pockets with money, because we had instituted the policy of self-help, having discovered this protected autonomy through an action in the court. We decided we were sick of the conditions of Indian life, we were sick of poverty on every hand; we were sick of ignorance and of our inability; we were sick of the influence that opposed us at every turn. There is not a man with any degree of initiative in him that has any kind of credit among all Indian peoples, including the Six Nations, who does not feel this. We are sick, all the Indians of the United States, of our being forced into that status practically by the action of the bureau, of everlastingly being submerged like penitentiary wards of the United States Government. We are sick of being plagued with the white man's filthy diseases; we are sick of being held down until we are plucked of everything that we possessed; we called our original people together, the chiefs of the great confederacy, and we said, "We will take inventory. Let us see what we are able to do. Here is our legal status. From here on it is our fault if we do not make some legal progress, when we have everything that any group of Indians need in the United States to go on with a program of self-help."

We made a survey of our population on the reservations, of the assets, of our man power, of the particular kinds of minerals, and what properties there were, and we ended up by recognizing one other thing which is prevalent among all Indians of any part of the United States, and that is the development of sycophants among us, so that it makes us hopelessly unable to ever do anything with ourselves, without a few of these English-speaking pinchback men among us everlastingly in the pockets of the white men, who have the bureau standing right behind them in every instance. There is not a group of Indians in the United States which is not always having help given to, that is trying to do away with Indians. They are the fellows who always get the help from the bureau. They are the fellows that are everlastingly filling their pockets from outside for destroying the rest of us. They put on fine clothes because they have fine jobs; and, when tourists come along, what happens is that the bureau points to them as "progressive Indians."

Now, there is a system of espionage growing up in this country that is alarming in its extent. In the most subtle way the Commissioner of Indian Affairs suggested to the Commissioner of Indian Affairs, on the Canadian side, in this instance to see that we were put into trouble, and I told you what it all ended up in. We brought our case before one of the biggest courts in Montreal. We secured the biggest criminal attorney in Montreal. We had had no hearing in the United States in our case. All the propagandists joined hands to throttle the Six Nations because they had a program of self-help; but under British honor, at least we had the protection of a court that went into the facts, and our case was tried, and the outcome of that trial was that we were never even called on the witness stand. The thing was so flimsy that the jury was for us, and they brought in a verdict of not guilty; and when the dis-

tinguished judge gave his instructions to the jury, he used these words:

I am not surprised that the Six Nations should look for more and more independence. They say they have the right of self-government. There is no doubt of it. They have just as much right to govern themselves as the legislature of the Province of Quebec or as a municipality has to make its own laws.

The CHAIRMAN. How long ago was this case?

Mrs. KELLOGG. That was a year ago last October; and in a communication which we will present to the committee upon this investigation of these facts, we shall introduce before you letters from Commissioner Burke wherein he suggested that his inspection force should be used in seeing—

Mr. KELLOGG. If they could find anything.

Mrs. KELLOGG. They did not find anything. I want to say this. We charge the Indian Bureau with propaganda, pernicious propaganda, criminal propaganda. They acknowledged it themselves on the witness stand in Montreal. They sent one of their anaemic, slimy fingered, hothouse fellows over there, and when he got on the witness stand he was compelled to tell that the Bureau of Indian Affairs had instituted propaganda against the Six Nations, and when our attorney asked him how much money he had used in this propaganda he stated that it was not much, but enough to employ one man and for the printing of that literature.

We want this commission to look into this fact. We suspect that this Indian Bureau's propaganda over the United States to deceive the public as to the wonderful things it does for the Indians has some fund behind it somewhere that we do not know about, and we want to know if our protector, the United States Government, is spending money to have somebody vilify us before the public, and to incriminate us in court and exterminate us in this country. (Addressing Mr. Meritt) I do not know how you dare go about unescorted, but—

Mr. KELLOGG. Do not.

Mrs. KELLOGG. I want to get to some of the important things here. I understand our time is limited. I am not through with all of these things, but I want to hasten on so that I may give some of the other delegates who are here some time to say something.

There is some fact connected with the fact of the Six Nations having brought forth a reconstruction program for themselves wherein they made up their minds to do this. They were going to incorporate, entirely outside of politics, a trust instituted to take care of all their assets, and this trust would become the banker not alone to the Six Nations but to all the Indians of the United States, through which they may pursue the securing of their liberties. This trust would have under it, separately incorporated, model villages which would take care of the social side of the problem, all of the health questions, and all of the social questions, like education, morals, recreation—all those things were to be controlled by that. They have, right now, this idea of locating this model village community at the Onondaga reservation in Syracuse, which is a most beautiful spot for such a thing. This is also the capital of the Six Nations.

We went about, first of all, to clean house. We had corrupt chiefs in our councils that had been in there, instituted by outside influences,

and with the help of the Indian Bureau with white agents who are always running around after something we have got, whether it be the elimination of somebody who might be a possible leader, whether it be properties, in one form or another, whether it be influence of some kind, whether it be the character of the people—

The CHAIRMAN. What do you mean by "white agents"?

Mrs. KELLOGG. I mean white agents; that they were introduced the moment we started litigation. There showed up a man who was trying to dictate to the Onondaga Council to hire a certain man who was an attorney, sure enough, in the State of New York, and that when the Six Nations caught onto the fact that this man was committed to a program of helping the State of New York and that he wanted to get the contract in order to submerge us—

The CHAIRMAN. You did not mean, then, that it was an agent from the Indian Department here, or anything of that kind?

Mrs. KELLOGG. No; but I want to say that they are always in touch with the Indian Bureau; they always get their inspiration, at least, out of the Indian Bureau. There has been money transferred in this propaganda; and we have known people who have passed checks—at least, some of our people have—and we had a detective who was present when it was done in one instance, with the white, paid agent, who, by the way, is out in the propaganda. He claims to be one of the best friends the Six Nations have.

Now I want to get back to this question of intervention.

Before I leave this, I want to charge here that we believe there is a coalition between the bureau and those political interests in the State of New York against the Six Nations. We want it looked into. We started this litigation to recover 18,000,000 acres of land in the States of New York and Pennsylvania, out of which we have hoped to get a settlement from some court enough for our reconstruction program. I want to stay off your legal ground, Mr. Kellogg, so that you will have that to present.

In going about to do that, the Six Nations started litigation for the recovery of these 18,000,000 acres of land. All trouble immediately started. They were entitled to United States intervention. Their attorneys came up here, and we have come up here to Capitol Hill, and they have gone to the departments, and when they went to look over the ground, they found that the Solicitor General of the Interior Department had taken the recent stand that the Six Nations had intervention coming from the United States. Our Wall Street attorneys had solicited this of the Department of Justice, and the assistants in the Department of Justice likewise all agreed that we have intervention coming from the United States.

Just the moment that a telegram was sent by the Assistant Attorney General of the United States to the United States attorney at Syracuse for the northern district of New York, to intervene in behalf of the Six Nations, the assistant attorney general of the State of New York came down here and stopped the Department of Justice from acknowledging that intervention was our due. In one of the letters, of which there are several, written by the Attorney General to attorneys and to friends of ours who had pressed him for his opinion on this matter, he expressed several different opinions. On one occasion it is laches. Now, laches was definitely disposed

of by the Boylan case in the appellate court. It was decided the question of laches did not operate against the United States as the guardian of the Six Nations. The effect of this state of affairs whereby we have no machinery to come and speak to the United States Government about our trouble, is that we were denied a hearing before the Senate Indian Affairs Committee by Senator Harreld, because we had no legislative bill before this committee. We went to different places, and finally we should have gone, I think, to the Judiciary Committee, at last, had it not been for the institution of this committee.

The effect upon the social life, upon the everyday life, of these Indians in these reservations is something that we can not endure and we will not endure. Right now, after we have exercised the first right of self-determination, white agents are busy at night handing out money to our eliminated chiefs, the chiefs that we have thrown out of our council because of this corruption. We decided upon one thing at the meeting on our program, that if the Indians of the United States were ever going to get anywhere it could not come from the outside; it would have to be an internal organization of the tribe. At the present time nobody is able to get a consensus of opinion out of the Indians, because of the bureau's selected pets who constitute business committee, all of which are against the regular institution on the basis of councils, who have plenty to say, and who know what they want, but are never even permitted to come to Washington.

On the Onondaga, they drew us into a petty trial over the question of who was the authority on the Onondaga Reservation. There was no change in that personnel except for the elimination of seven or eight chiefs other than the head chief. Nevertheless, we have been in the courts, and the income from the Onondaga sand-bed leases has been held up in the courts in order to make the Six Nations paupers while they are having to fight the whole world.

The CHAIRMAN. Who brought those actions?

Mrs. KELLOGG. The local people. They can always operate through bad Indians. That is what happened in this case, and we want, at the termination of these hearings, to know if there is any place in the United States Government that we can go to for assistance, and where we can prove who is who among our own people, how we are constructing our government, how we are pushing our program, what our policies are, and who we are, so that hereafter this question which the treaty of 1784 supposed would always be easily adjusted, can be definitely settled for all time. Right now, in the Mohawk Nation, there is all kinds of commotion over the fact that two Indian bureaus are always dealing with the affairs of the Mohawk Nation, and there is also a lot of persecution—

The CHAIRMAN. What do you mean by two Indian bureaus?

Mrs. KELLOGG. One is the bureau at Ottawa.

The CHAIRMAN. Oh, the Canadian bureau?

Mrs. KELLOGG. When the Jay treaty was made, the Mohawk Council held it up for three years, telling these commissioners, whose names I do not now recall, that they should put their boundaries outside their reservation. They finally agreed that they would lift up the line into the sky. After they passed, the line fell down, and what happened was that there is a division of the Mohawk territory, run-

ning through, which absolutely balls up the affairs of the Mohawks into such a state that the Mohawk chiefs can not do anything with selfgovernment without interference from Ottawa and without interference from the Bureau of Indian Affairs over here. I am going to allow them themselves to tell some of their own stories. Right now the Cayuga Nation in northern New York is threatened with the extinguishment of its nationhood by the fact that New York State offers to settle now, at this late day, for 160 square miles of territory that it has never fully paid for, and the Six Nations do not wish any of their people to accept this money because of the litigation that we have started as the Six Nations confederacy, in the court, to recover these through the court.

I do not see that I am going to have the time here—it is a quarter of 11 now—to go into the details of the reconstruction program.

Mr. KELLOGG. I would not, now, Mrs. Kellogg.

Mrs. KELLOGG. And I think if I might leave that for a probable future, I should like to have Mr. Kellogg, perhaps, supersede me to present the legal situation, as he deems best, on what I have left out; and then I should like the Mohawk chief to be heard, and Chief Crouse of the Onondagas and Chief Eels of the Cayugas.

The CHAIRMAN. Have you any questions, Mr. Meritt?

Mr. MERITT. No; except I want to make this short statement, if she has concluded her statement.

Mrs. KELLOGG. I have not concluded it. I have rested it now. I am never through, so far as the bureau is concerned.

Mr. MERITT. I want to say, for the information of the committee, that the jurisdiction of the Federal Government over the Indians of New York is very limited indeed. In fact, our only jurisdiction up there is to carry out the treaty provisions of the Federal Government.

Those Indians are practically independent of the Federal Government. We have practically nothing to do with those Indians. They are educated in the local schools. We do not attempt to supervise their lands. And the statements that have been made here in regard to the interference by the Bureau of Indian Affairs in their handling of their property are pure fiction.

When the hearing is concluded, I would like to make a statement for the information of the committee.

The CHAIRMAN. Then there are no superintendents up there or anything of that kind?

Mr. MERITT. We have one superintendent there who collects certain rentals under treaty provisions and carries out the treaty provisions of the Government, but we do not attempt to handle the affairs of the individual Indians as we supervise the affairs of Indians in other parts of the United States.

The CHAIRMAN. By "treaty provisions," do you mean provisions of the treaties of 1784 and 1789 that Mrs. Kellogg has referred to, or more recent treaties?

Mr. MERITT. Yes; those are the treaties. There are two provisions carried in the Interior Department appropriation bill every year which read as follows:

For fulfilling treaties with Senecas of New York: For permanent annuity in lieu of interest on stock (act of February 19, 1831), \$6,000.

For fulfilling treaties with Six Nations of New York: For permanent annuity, in clothing and other useful articles (article 6. treaty of November 11, 1794), \$4,500.

The total expenditure for the Indians of New York by the Federal Government for the fiscal year 1928 was \$8,380.02, and we have practically nothing to do with the handling of the affairs of the New York Indians.

Mr. GLAVIS. What, if anything, did the Indian Bureau have to do with the Salamanca leases when they were given in 1892; do you know?

Mr. MERITT. I would have to look up the records for that.

Mr. GLAVIS. Your agent collects the returns from that property?

Mr. MERITT. Yes; that is a part of his duties.

Mr. GLAVIS. I was wondering whether or not the Government had a part of the leases made at that time or not?

Mr. MERITT. Those leases were made by the Seneca Nation in accordance with the act of Congress of September 30, 1890 (26 Stat. 558), which reads as follows:

AN ACT To authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the leases of land situate within the limits of the villages mentioned in the act of Congress entitled "An act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases," approved February nineteenth, eighteen hundred and seventy-five, except leases to railroads, shall by the terms of said act be renewable, the same shall be renewable for a term not exceeding ninety-nine years, instead of the term of twelve years, as therein provided, subject to all other terms and conditions of said act.

The CHAIRMAN. Whom do you want heard next?

STATEMENT OF JOHN R. T. REEVES, REPRESENTING THE SOLICITOR'S DEPARTMENT OF THE INDIAN BUREAU

Mr. MERITT. Mr. Reeves represents the solicitor's department of New York, and he has made a careful study of these matters and I think it would be well to have him make a statement.

Mr. GLAVIS. It would be interesting, I think.

Mr. KELLOGG. I think he should follow right now, Mr. Meritt's statement.

Mr. REEVES. Prior to 1872 the governing interests of the Seneca Nation or Council, or whatever you choose to call them, had entered into and negotiated 12-year leases in those towns there along the railroad, and Congress, by an act of 1892, extended these 12-year leases for a further period of 99 years.

Mr. GLAVIS. So that new leases could be made?

Mr. REEVES. No; they extended—provided for new leases for the period of 99 years at the same rental.

There was some considerable complaint about that. I do not know about the history of it; but that was the legal situation.

Then, in 1901, in the act of February of that year, I think, Congress directed that the rental from those leases should be paid to our Indian agent at Salamanca instead of being paid to the tribal officers.

There was quite an extensive investigation and a report on that, under which it was shown that all the money collected by the tribal officers of the council was expended or frittered away, or else pocketed, and that the Indian tribe got not a nickel of that. None of the money was ever expended for the benefit of the Indian tribe. So that the Congress directed that those rentals should be paid to our agent and distributed as these other annuities were distributed. The act directed that in June of each year he should also turn over to the treasurer of the Seneca Council \$2,500 for their expenses. That is the situation under the legislation, and that is the history of those laws you speak of.

MR. GLAVIS. Did not President Roosevelt have some one make a report as to the conditions of those leases?

MR. REEVES. There have been half a dozen investigations.

MR. GLAVIS. Did not a man by the name of James Calvin Myers make a report?

MR. REEVES. Yes.

MR. GLAVIS. Have you a copy of that report?

MR. REEVES. We have the reference to it as a congressional document. Whether we have extra copies or not I do not know.

MR. GLAVIS. Does Mr. Myers go into it thoroughly?

MR. REEVES. There were several investigations made of those leases up there, and this document, House Document 1590, Sixty-third Congress, at its back contains an appendix, a compilation of treaties, acts, of Congress, court decisions, and congressional documents relating to those New York Indians, including those leases at Salamanca, all listed by House document numbers or Executive document numbers, and the sessions of Congress.

MR. MERITT. At the conclusion of the hearing I am going to ask that this document, which gives a full history of the New York Indians, be included in the record. I think it contains more real information on the New York situation than you will find in any other document.

TESTIMONY OF O. J. KELLOGG

(The witness was sworn by the chairman.)

The CHAIRMAN. Will you please state your name to the stenographer, and your residence?

MR. KELLOGG. O. J. Kellogg; Seymour, Wis.; office at Syracuse, N. Y.

Gentlemen, there is a lost man somewhere up in what is now the State of New York. That man became lost soon after the treaty of 1796. Up until that time he was located very prettily, a great deal better than any other Indians in this country.

He had a treaty with the United States Government, started in 1784 and finished in 1789, by which the United States Government guaranteed him protection in 18,000,000 acres of land in consideration of his ceding of his title to the Ohio lands—the lands in the Ohio Valley. The Federal Government ceded all right and title that it had to this 18,000,000 acres of land; and by the treaty of 1796, which is explanatory of the treaty of 1784, the Federal Government had put into the treaties a provision that not one foot of this land

could be sold except it was sold to the sovereign, the United States Government.

This was given to these Indians on the ground of their help in the Revolutionary War, and in the trying times of 1776 to 1783.

To-day what do we find? That little remnant of the people claim from the State of New York that 78,000 acres left.

When this Government started to protect the Six Nations, they had 18,000,000 acres of land. They protected them down to 78,000 acres, and now they are trying to protect them out of that.

Gentlemen, if your committee comes up to New York, I think we will be able to show you things that you have never seen in any other State. Land was taken away from the Mohawks, the Onondagas, and the Cayugas by so-called State treaties. Not one of those treaties was ever validated by the United States Government. Not one of those pieces of land was ever offered to the United States Government for it to purchase. To-day these Indians are down to 78,000 acres of land. They had 18,000,000 acres of land which the United States guaranteed them they could keep. They have only 78,000 acres to-day. Whose fault is it? Partially that of the United States Government; partially it is the fault of the government of the State of New York.

The Federal Government was poor during those early years. New York was a whole lot more powerful. The Federal Government could not go in there and force the State of New York at that time to live up to the treaties. These treaties were confirmed by the United States Senate and promulgated to the world. The New York Senators fought them bitterly. Even Governor Clinton came down here and fought them bitterly; but they were passed in spite of that, and were the supreme law of the land.

Article 1, section 10, of the Constitution forbids any State entering into any treaty or alliance with any other nation. The very fact that this land, 18,000,000 acres less 78,000 acres, was taken by treaties made by the State of New York with individual members of the Six Nations, shows that the taking of it was not legal. Not one foot of it was ever surveyed. Gentlemen, it was just the same as Germany, or some other foreign nation, coming over here and buying property in the State of Wisconsin; or, Senator Frazier, in your State of North Dakota. It can not be done under the law and under treaties.

Senator WHEELER. Let me interrupt you to ask you a question. You say it can not be done under the laws and under the treaties.

Mr. KELLOGG. Yes.

Senator WHEELER. Why have you not gone into court on it?

Mr. KELLOGG. We are in court now; but we can not get a foothold because the Federal Government will not intervene; and Charles E. Hughes, our opposing attorney, has twice knocked us out of court because these Indians can not sue for that purpose without the joinder of the United States.

Senator WHEELER. What is the idea of you coming before this committee with it? There is nothing we can do about it that I can see.

Mr. KELLOGG. Absolutely, there is something you can do. You can decide the status in the State of New York. You can help us to get Federal intervention, if you think the case is good.

Senator WHEELER. We have not any more right to decide the status of the State of New York than you have.

Mr. KELLOGG. No; the status of the Six Nations Indians in New York.

Senator WHEELER. Yes.

Mr. KELLOGG. I want to tell you this. On that 18,000,000 acres of land there is not a patented deed issued by the United States Government. It is all issued by the State of New York. Practically all of that land is held on leases, and not on patented deeds, or warranty deeds.

Senator WHEELER. Was all of the 18,000,000 acres of land in New York?

Mr. KELLOGG. No; part of it is in the State of Pennsylvania. It runs clear down to Pittsburgh.

Here is a statement showing the whole thing from beginning to end, with the decision of the court on the matter. New York appointed a commission of the legislature to make an investigation, and here is the report of that committee, and I would like to file it for the record.

Senator WHEELER. It is all right to file it, but I do not think it should be made a part of the record.

The CHAIRMAN. You think it would be better just to file it as an exhibit?

Senator WHEELER. Yes; as an exhibit. Why should we fill up the record with a complaint?

Mr. KELLOGG. It is a complaint of a lot of other treaties in the State of New York of things going on now that we want this committee to investigate and look into; for instance, the fact that they are taking away certain lands—trying to, by a bill in legislature.

(The statement referred to is here printed as follows:)

PETITION

To the INDIAN INVESTIGATING COMMITTEE OF THE UNITED STATES SENATE:

We, the Hodinonshonni, the League of the Iroquois, otherwise known as the Six Nations Confederacy, who were the first to establish on this continent law and order and a government respected by the tribes of Indians America, and by foreign nations; we, who were the original authors of that form of government which has given the largest degree of freedom to mankind, thereby making possible western civilization; we, who through the most critical times of a struggling foreign people gave to them the heart's right hand, and bread and life, and by these things secured and determined the liberty of the land and made possible the great republic of the United States; we, who put our trust in time-old honor between men and between nations and our whole faith in the national honor and integrity of the people we had helped to become a nation, made a solemn covenant with the United States of America.

We, the Hodinonshonni, your petitioners, respectfully submit to your honorable investigating commission that by the treaty of Fort Stanwix, 1874, the Six Nations were secured in the possession of approximately 18,000,000 acres of land in western New York and Pennsylvania, bounded by the survey known as the Sir William Johnson line of property handed down to us from the treaty with Great Britain of 1768.

That by the treaty of 1784 the Six Nations were secured in their independent self-government.

That by this treaty the Six Nations were guaranteed protection from the United States Government.

That by this treaty the Six Nations ceded to the United States the whole of the Ohio Valley.

That by this treaty the United States and the Six Nations were to remain faithful friends.

That, according to our traditional honor, we the Hodinonshonni, have kept the faith to the present day.

And we desire to remind the United States of America, of the great circumstances out of which this treaty grew.

The terms came out of the pre-war promises of the Revolution by Gen. George Washington. At that time both the British and the colonial forces coveted the alliance of the league of the Iroquois.

Both sides knew whichever side could ally itself with the confederacy would have the balance of power. A treaty council was asked for by Sir William Johnson, and was granted by the confederacy. Sir William told them that the English asked for an alliance, and their support against the Colonies; that the English Government would pay them 5 pounds gold for every fighting man, and offered them a treaty guaranteeing them security in their title to their territory, and protection, against all encroachments "as long as water runs and grass grows." Also should the British be whipped, they would deed them as much land in Canada as they then possessed in New York and would guarantee them their sovereignty as a nation there.

Gen. George Washington, two months later, asked for a national council of the Iroquois, and it was granted. He told them the Colonies were poor, but they were fighting for liberty, the one thing dearest to every Indian heart. He said he could not offer them gold, but asked for an alliance between them and the Continental Congress soon to be formed. And should the British be whipped, the new Government of the United States would renew the alliance, both recognizing the sovereignty of one another. The United States would guarantee them in their title to their lands forever.

At first the Six Nations firmly held to their policy of neutrality. Had not Gen. Joseph Brant, a powerful Mohawk leader, been persuaded to lead away a following of the confederacy to the British side, the Revolutionary War would not have been so prolonged. Still the Six Nations remained neutral, but the British now sent primitive expeditions into the Six Nations country. The Oneidas, always the friends of General Washington, now put all the fighting men of the Oneidas, the Tuscaroras, and those of their adopted peoples, the Stockbridges and Brothertowns behind General Washington and gave his starving army adequate provisions and so quickly determined the outcome of the Revolution.

As the President of the new United States, the Father of his Country kept the faith of his Iroquois allies and personally directed the Fort Stanwix treaty of 1784.

It was made with the most vigilant observance of all the formalities due an international document. It was the result of conferences between duly authorized representatives of both nations.

It was duly ratified by the United States Senate and promulgated to the world.

It remains to-day the most dignified treaty in the whole history of this country's Indian relations.

It was made with a civilized power already recognized as such by France, Holland, and England, and a government which was a better established political unit than the white government for many years.

For a hundred and forty-four years your petitioners have lived and seen the embarrassments of the United States Government toward the Six Nations, promoted by the State of New York. When the confederacy first protested the President of the United States answered them in these words: "Be assured that the United States of America will never see you defrauded, but will protect you in all your just rights." And the protests of President Washington to Governor Clinton of New York is a matter of history.

Beginning with 1786, contrary to the constitutional provision prohibiting the States to enter into treaty relations with Indian nations, the State of New York began a series of treaties with separate nations of the confederacy for cessions of their coveted territory. Ruin and fraud were the order of these transactions.

Parties interested in the cessions of land were made members of the personnel of the New York treaty commissions.

Parties representing the Six Nations had no power constitutionally on the Indian side to sell, without the consent of the people of each nation, and without the consent and ratification of the general council of the Six Nations

Confederacy. The loss of Six Nations citizenship to the Delaware Indians is an example of the punishment due any Six Nations people who violated this provision of the Iroquois constitution.

Finally, by the treaty of 1784, the Six Nations had no power to sell land without the consent of the guardian, the United States Government.

Under the articles of confederation, "Treaties shall constitute the supreme law of the land.

"Your petitioners pray that your honorable commission will investigate the facts and the charges herein set forth to the end that a sacred covenant between the league of the Iroquois and the United States of America may not become a scrap of paper at the hands of a powerful nation through a sinister organ whose power to destroy the Indian peoples of the land has come to be ground for a world appeal; that the "reign of terror" in bureaucracy may be ended and the day of better understanding between the red man and the white may be made possible.

Your petitioners charge:

1. That Governor Clinton and the delegation from New York did all in their power to keep the Senate from ratifying the treaty of 1784.

2. That the officials of the State of New York from 1784 through the years willfully defied President Washington and his successors; defied the Congress of the United States, the Supreme Court, and the United States Constitution.

3. That though both the Congress of the United States and the Legislature of New York have passed stringent liquor laws making it a crime to give or sell liquor to an Indian, that liquor was the main argument used by New York State commissioners in procuring the so-called Indian treaties.

4. That every foot of land bought from the Mohawks, Oneidas, Cayugas, and Onondagas was illegally obtained in absolute contravention to the laws of Congress, to the United States Constitution, and to the treaties.

5. That President Washington vigorously protested to Governor Clinton that these so-called State treaties were made and the land taken away in utter contempt of Federal authority.

6. That from the day the treaty of 1784 was ratified and promulgated, the State of New York through officials, through local chambers of commerce, and through paid hirelings, both white and Indian traders, have used every means in their power to discredit and disorganize the Six Nations and that they succeeded since 1867 in destroying to a great extent their solidarity and integrity.

7. That prior to 1867 the State of New York had no help or abetting from the Federal Government in the interference with the Six Nations' affairs, but since then a system has been built up under the Interior Department, the Indian Bureau. This bureau has joined hands with New York to further break down the Six Nations as a nation.

8. That the State of New York has taken these lands illegally procured from nations of the Six Nations and has issued State patents to its citizens for same.

9. That the United States Government has issued no patents for any of this land and that the patents issued by the State are null and void and have no force or effect.

10. That a great deal of this land, especially city real estate, has no title but is strictly on lease.

11. That the title of the land along the rivers and streams now controlled by the Power Trust and its connections is vested in the Six Nations and that the Six Nations' claim to riparian rights are as well founded as any other peoples'.

12. That the Six Nations Confederacy vigorously protested to the Federal Government through the years so that no statute of limitations can run against them; that the law of laches does not apply to people who have no power to sue.

13. That prior to 1867, when the Indian Bureau was organized, the State of New York claimed no jurisdiction over the Six Nations, yet throughout the last 60 years New York has assumed considerable jurisdiction over the Six Nations' people and their affairs. It has appointed agents over each reserve, who inefficiently take charge of business affairs without a protest from the Federal Government, and we charge that the agents have been partial, and have at all times sought to create discord among the Indians.

14. That any act performed by these so-called State agents, except the distribution of State annuity, is illegal and without warrant of Federal law; that dual control over our people is illegal, a nuisance, and must be stopped.

The Boylan case has brought the American people face to face with the crime which has been perpetrated on the Six Nations Indians. It has brought the State of New York and the United States Government to a point when they must face this issue and make a settlement with the confederacy for the wrongs of degrading, pauperizing, and well-nigh annihilating a once powerful nation, which was the hope of the American Indian on the Western Continent. An Indian by the name of Margaret Honeyost had mortgaged 32 acres in Oneida, N. Y. In a few years she was foreclosed and forced to move. An action was started by the United States district attorney to declare the foreclosure illegal. The said action went to the Federal Circuit Court of Northern New York, with Judge George W. Ray presiding. After a long hearing Judge Ray handed down a decision, stating that the title to the land had never left the Six Nations. That the Iroquois Confederacy was still a nation and had never given up its right of self-government. And in effect, therefore, no one but the Six Nations government could mortgage or sell 1 foot of the property guaranteed under the treaty of 1784. The effect of this decision was that the 32 acres then in the hands of an innocent purchaser reverted back to the Six Nations by court order and so stands to-day.

An appeal was taken by the white man to the Federal court of appeals, and there Judge Ray's decision was sustained.

This case brought up the question of jurisdiction between the Federal and State Governments over the Six Nations. As a result of the discussion, the State appointed a commission to investigate the status of the Six Nations. The report of the chairman of that commission follows:

"First. The Six Nations Indians consummated a treaty with the United States Government through its regular channels, the same being approved and ratified by Gen. George Washington, at Fort Stanwix in the State of New York in 1784, by which they were ceded certain territory within the State of New York.

"Second. That the ceding and setting over to the Indians of this territory was in accordance with and at the conclusion of a treaty consummated by the Indians as a nation and by the United States as a nation.

"Third. Further, that the passing of the title of the ceded territory to the Indians of the State was a legal and proper transaction, and that the Indians as a nation became possessed of the ceded territory the same as any other nation would become possessed.

"Fourth. That the said Indians of the State of New York as a nation are still the owners of the fee-simple title to the territory ceded to them by the treaty of 1784."

We charge that since the Six Nations began a rehabilitation program and a litigation against the St. Lawrence River Power Co. and the State of New York, that the Indian Bureau has carried on a constant propaganda against them in its usual sinister way to break up their solidarity and progress, and that through it the United States Government is made to appear as an ally of the political and other enemies of the Six Nations.

That among its efforts, it caused postal authorities to investigate the officers and organizers of the Six Nations, and that when the postal investigators found no fraud against them that the bureau next conspired with one Duncan Scott, commissioner of Indian affairs at Ottawa, to have the Six Nations officers and representatives arrested and tried in Canada on charges of fraud.

That the Indian Bureau put its inspectors on the trail to try to find evidence to convict them in Canada.

That during the trial at Montreal the bureau sent its chief clerk to testify against the indicted people. That under cross-examination he admitted that the bureau had been carrying on a propaganda against the Six Nations; that he was the man authorized to do it; and that public money had been spent in this effort.

The trial at Montreal before Judge Wilson, of the King's bench, lasted 10 days. During the trial no evidence was produced before the court along the line of the charges of fraud above made; but the Six Nations were compelled to try their whole case, leaving the court to define the Six Nations' position. The Six Nations did not want a "whitewash." They wanted a clear-cut decision of Six Nations' status as well as a verdict as to the honor and integrity of their representatives.

Justice Wilson, one of Canada's greatest jurists, handed down the following: "I am not surprised that the Six Nations should look for more and more independence. They have their own government; there is no doubt of that. They say they are self-governing. So they are, to the same extent that a municipality is self-governing or that the legislature of the Province of Quebec is self-governing."

The jury decided in eight minutes that the Six Nations' representatives were conducting the affairs of their nation as they should be conducted. We are informed that this trial cost the prosecution over \$17,000. We have our suspicions that the bureau at Washington gave its share in money as it did in other things to procure conviction.

We charge that the conspiracy between the Indian Bureau of Washington and the Indian bureau at Ottawa has brought about the enactment by the Canadian Parliament of a law to arrest any Indian who contributes money to prosecute any claim without the consent of the commissioner of Indian affairs in Canada; that this law is intended to persecute the Mohawk constituency of the Six Nations, who by the Jay treaty were wrongfully left on the Canadian side against their protest and the protest of the Six Nations, and the specific agreement finally with the commissioners of the Jay treaty that the boundary line between Canada and the United States was to be lifted into the sky over the Mohawk Indian land.

We charge that Barnhart Island, which belongs to the Mohawks, is in the United States boundaries, and that the State of New York has assumed title to it, and has transferred it to the St. Lawrence River Power Co. That the lease for Barnhart Island has expired long ago and that no lease money has been paid for over 60 years.

Your petitioners desire to remind the United States of America that the Six Nations are not under the Bureau of Indian Affairs, and that the Indian Bureau's acts of wanton contempt, interference, and persecution against the independence and integrity of the official personnel of the confederacy is ground for war between nations, were not the protectorate reduced to a state of pauperism and helplessness by acts of fraud and harassments allowed through the years by the guardian Government. Believing intensely in the justice of our cause, we petition your honorable commission to investigate how many means, how many people, and how much money has been used in the Indian Bureau's propaganda against the Six Nations, more particularly between the dates of February 15, 1922, and October 18, 1927.

The Seneca Nation in 1849 changed its form of government with a separate understanding between it and the United States Government, and that in the absence of machinery provided by the Federal Government in their relations with the Six Nations the Senecas have been coming to the Interior Department. By this change the Seneca Nation left the Indian form of government, adopting, to a certain extent, the white form. Under this form and under the eye of the Indian Bureau, a most corrupt government has reigned ever since among the Seneca Nation. Elected councilors, in the place of chiefs, largely mixed bloods, have carried on a system of looting quite equal to their white example. No report as to the oil, gas, and land lease revenues are made to the Seneca Nation. No increase in the per capita distribution of royalties to the Seneca people has been made for years despite the increase in the revenues. The Seneca declaration of the change in 1849 was not acknowledged before a notary until 1923, long after the original signers were dead.

The Onondaga Indians own a reservation of 4 miles square. Most of it is hills, there being a small part in bottom lands which alone can be used for crops.

We charge that the city of Syracuse covets this reservation and that immediately it has a plan to take away the bottom lands for dam sites, and that the Indian Bureau has promised its assistance in getting the land; that a prominent New York politician offered the Onondagas \$15 per acre for land worth \$250 and told the Onondagas that if they would not accept it the Indian Bureau would help him get it anyway.

A litigation was started June 6, 1925, in an ejectment action against the St. Lawrence River Power Co. by James Deer, a St. Regis Mohawk, under the auspices of the Six Nations. This suit was filed in the Federal District Court of Northern New York by the New York law firm of Wise, Whitney & Parker. Some months later the State of New York came in as party defendant on its own volition.

On September 29, 1925, the St. Lawrence River Power Co. filed a motion to dismiss the complaint on the ground that no Federal question was involved and that the plaintiff being an Indian had no legal authority to sue, although being a citizen of the United States. It was at this stage of the proceedings that the State of New York interpleaded as a party defendant.

The motion to dismiss was argued November 21, 1925, by Col. Jennings C. Wise for the plaintiff and by Hon. Charles Evans Hughes for the defendant.

At no time in the pleadings did defendant's council undertake to set up a title to land in question for the obvious reason that the so-called treaty of 1824 by which the St. Regis band had been divested of possession was wholly without effect at law, being null and void, under the Constitution of the United States, and the Federal statutes enacted pursuant thereto including the treaties of 1784 and 1797.

It was specifically stated under the articles of confederation that the United States took protectorate over the Indian nations and a proclamation was issued that Indian nations should be independent of any State.

Article 1, section 8, of the United States Constitution conferred upon Congress the sole right to regulate commerce with Indian nations.

Article 1, section 10, of the Constitution forbids any State from entering into any treaty or alliance with an Indian nation.

Article 2, section 2, of the Constitution conferred upon the President of the United States the exclusive power by and with the consent of the Senate to make any treaty.

July 22, 1790, at President Washington's request, Congress passed an act (1 Stat. 137) expressly forbidding the States, no matter what their pre-emption rights might be, from entering into a treaty with any Indian tribe or nation.

In 1823, 1831, and 1832, John Marshall, Supreme Court Justice, handed down three decisions, laying down three great fundamental principles. Indian rights were guaranteed by solemn treaty between Great Britain and the United States and protection by the Constitution was expressly declared.

Judge Cooper, of the Federal District Court of Northern New York, took the case under advisement and no decision was handed down until October 18, 1927.

Immediately, a formal request was made on the United States through the Secretary of the Interior to intervene on behalf of its wards. The request was referred by the Secretary of the Interior to the Attorney General. The Six Nations attorneys took the matter up with the Department of Justice, and pointing out to Assistant Attorney General Parmenter that intervention was necessary, not alone to protect the prima facie title of the United States, but the right of occupancy of its citizen wards as well.

Pending final action the Department of Justice at once notified the United States district attorney for the Northern District of New York to prepare himself to intervene without delay should the Attorney General decide so to do.

Immediately Deputy Attorney General Manley, of New York, arrived on the scene, and, with powerful support, succeeded in heading off intervention.

At least three times representatives of the St. Lawrence River Power Co. have approached Six Nations' representatives asking if there was no way by which matters could be settled out of court. July 6, 1927, a day was tentatively fixed for a settlement conference between the Six Nations' representatives and those of the St. Lawrence River Power Co. The Six Nations' representatives were asked to come to the conference prepared to state the amount they would accept and to be able to show how the title was to be quieted. There was no Federal intervention obtainable.

We wish now to call the commission's attention to the memorial submitted by Hon. Charles E. Hughes, then Secretary of the State, in answer to the memorial submitted by Great Britain in the case of the Cayuga Indians, before the British American Claims Commission in 1926.

"The right of domain which vested in a nation the ultimate fee to the land carried with it the exclusive right of acquiring from the various Indian tribes inhabiting it their right to the soil, which were considered as limited to a right of occupancy of the land respectively used by such tribes as their hunting grounds. This limited occupancy might be lost by the Indian tribes through abandonment, or forfeited through engaging in war against the sovereign, or the title in some instances might be extinguished by purchase from the Indians by persons authorized by the sovereign. This dominant right in a sovereign to

extinguish the Indians' right to use or occupy land of which the ultimate fee is in the sovereign is called the right of preemption. It precludes not only other powers but also the subjects of the sovereign, without his express authority from acquiring the Indian right of use or occupancy of lands.

"It is this example which the United States since they became by their independence the sovereigns of the territory, have adopted and organized into a political system. Under that system the Indians are so far independent that they live under their own customs and not under the laws of the United States; that their rights upon the lands where they inhabit are secured to them by boundaries defined in amicable treaties between the United States and themselves, and that whenever these boundaries are varied it is also by amicable and voluntary treaties by which they receive from the United States ample compensation for every right they have to the lands ceded by them."

The Six Nations believe this treatise by Judge Hughes to be the greatest summary of the treaties, the United States Constitution, and the laws of Congress in regard to the purchase of Indian lands ever penned by man.

As Secretary of State, knowing the Constitution and the laws of Congress as no other man living, we can well understand the forceful position he took. And we can well understand that he never dreamed that a great Nation like the United States could have allowed any other method but this one to be pursued. He has stated the only legal and tenable way of securing land title from the Indians.

In conclusion, we pray your honorable commission to consider that the United States of America gladly received our assistance to its nationhood in the trying days between 1776 and 1783. That we gave that assistance on the assurance that we could trust the national honor and integrity of the United States. That beyond the beautiful traditions between the two nations of that time, the Six Nations are secured doubly in the protection guaranteed to them by the supreme law of the land and by the cession of billions of acres of the Ohio Valley.

That though the Six Nations have suffered heavily in the looting of their lands, their more recent persecution by the arm of the United States Government through the Indian Bureau is calculated to break them; that inasmuch as Federal intervention which is their just due from the United States Government is at the same time being withheld without adequate reason, your petitioners charge there is a collusion between the United States Government and the politicians of the State of New York to keep them defrauded and broken.

Respectfully submitted.

Senator WHEELER. Are these Indians wards of the United States?

Mr. KELLOGG. They are certainly wards of the Government.

Senator WHEELER. Technically?

Mr. KELLOGG. Judge Ray's decision in the Boylan case said they were wards of the United States Government. They are aliens and have never given up their rights of self-government, but they are wards of the United States Government.

Senator WHEELER. What judge said that?

Mr. KELLOGG. Judge Ray of the northern district of New York. Also, it was appealed to the appellate court and they sustained Judge Ray.

Senator WHEELER. They sustained him as to what?

Mr. KELLOGG. As to the fact that they were wards of the Government of the United States.

Senator WHEELER. How did that come up?

Mr. KELLOGG. In making a test case on 37 acres of land in that case. The land got into white hands.

Senator WHEELER. You are the attorney representing in that case?

Mr. KELLOGG. No; I am not the attorney. I am just the agent of the Six Nations, representing them in this hearing. The attorneys in that case are in New York.

Senator WHEELER. But you have your lawyers representing them?

Mr. KELLOGG. They made a little test case up in the northeastern part of the State, and the rest of it is not in court.

Senator WHEELER. Why is it not in court?

Mr. KELLOGG. Because they have had a test case going on for five years, and we have never been able to succeed because we never could get the Government to come in with us. They promised us they would, but they do not do it.

Senator THOMAS. You said you were an agent of the Indians?

Mr. KELLOGG. I am the agent of the Indians, hired by them to look after certain matters for them.

Senator THOMAS. Have you a contract with them?

Mr. KELLOGG. Yes.

Senator THOMAS. Have you a copy of that contract?

Mr. KELLOGG. I have, I think.

Senator THOMAS. Would you mind submitting that also to the committee?

Mr. KELLOGG. Absolutely [producing paper].

Senator THOMAS. For the benefit of the committee, without reading the contract, just state the nature of the contract, and what it provides for.

Mr. KELLOGG. It provides for carrying on these investigations before this committee, furnishing the committee with evidence, and so forth; for organizing the Six Nations into a body that can be a nation; reorganization work that has been going on for the past five years.

Senator WHEELER. This contract was made on the 9th of February, 1929.

Mr. KELLOGG. Yes.

Senator WHEELER. This contract reads as follows. (Reading:)

This agreement made this 9th day of February, 1929, between the Six Nations of Iroquois Confederacy, resident within the territorial boundaries of the United States and Canada, hereinafter referred to as party of the first part; and O. J. Kellogg, resident of Seymour, Wis., hereinafter referred to as the party of the second part.

Whereas the party of the first part did in January, 1924, employ the party of the second part to act as its agent and confidential advisor in the reorganization of the Six Nations Confederacy, and with the further understanding that the party of the second part was to give his whole time and endeavor toward the recovery of the value of large claims against the States of New York and Pennsylvania, or corporations or individuals resident in said States; and

Whereas party of the second part has lived up to his part of said agreement entered into in January, 1924; and

Whereas said party of the second part was promised a written contract with party of the first part with a percentage of all recoveries, said percentage to be fixed at an amount to be satisfactory to both parties to said contract; and

Whereas party of the first part has elected and authorized and empowered party of the second part as its agent and representative in procuring a thorough investigation by a senatorial commission of all Six Nations' wrongs done them during the past 140 years; and

Whereas the party of the first part has given the party of the second part their power of attorney to represent them at any conferences of settlement between them and their debtors and have empowered the party of the second part to make any compromises between party of the first part and the States of New York and Pennsylvania or corporations or residents of said States, that party of the second part deems to be for the best interests of the party of the first part.

Now, therefore, in consideration of the premises and mutual reciprocal covenants and agreements hereinafter expressed, the parties hereto covenant and agree as follows:

The party of the second part does and will accept further employment from party of the first part as mentioned in the foregoing articles, and agrees to act for the party of the first part, and to use all diligence in bringing about a settlement of all claims that party of the first part holds against the State of New York and Pennsylvania and corporations or residents therein.

This contract further provides that for the services rendered by the party of the second part to the party of the first part during the five years just past, and for services mutually agreed upon to be rendered by party of the second part to party of the first part until the final adjustment of all claims as specified in above-mentioned paragraphs;

That the party of the first part does hereby covenant and agree to pay to the party of the second part 2 per cent of the total of any and all recoveries secured by compromise or otherwise, said per cent to be deducted from said recovery before any distribution is made.

It is hereby understood and agreed that this contract and agreement does not in any way conflict with or alter the terms of the contract held by the firm of Wise, Whitney & Parker, of 15 Williams Street, New York, N. Y.

Furthermore, it is hereby covenanted and agreed that party of the first part hereby gives party of the second part its power of attorney to make any compromise in our name of any claims held by it against the State of New York or Pennsylvania or with corporations or individuals resident therein who may be indebted to us; and

That party of the second part is empowered to sign any papers of compromise in our behalf with any of the above-mentioned debtors; also

That party of the second part is empowered to receipt for and accept any checks in some bank or trust company in toto to the credit of the party of the

It is further agreed that party of the second part must deposit such drafts or checks in some bank or trust company in toto to the credit of the party of the first part, and that the party of the first part is to compensate the party of the second part by checks made to him by the Six Nations' treasurer or party authorized to draw such check or checks.

It is further agreed by both parties to this contract that this contract and all its provisions are in full force and effect for the term of five years from the date of signatures.

It is also agreed that the power of attorneyship given in this contract is in full force and effect for a term of five years from the date of signature.

It is agreed that the terms of this contract shall be binding on both parties to this contract and their heirs and assigns for the term of five years from this date.

In evidence whereof the party of the first part by its duly constituted and authorized representatives and party of the second part have hereunto set their hands and seals at this conference held at Syracuse, N. Y., on the day and year above mentioned.

O. J. Kellogg (L. S.), party of the second part; representatives of the Six Nations: Louis P. Oak (L. S.), Mohawk Nation; Simon K. Simon (L. S.); Alex R. (his x mark) Thompson (L. S.); Ovide Sioni (L. S.); Wm. K. Cornelius (L. S.), Oneida Nation; L. S. Kellogg (L. S.); Wm. Baker (L. S.); Geo. E. Thomas (L. S.), Onondaga Nation; Livingston Crouse (L. S.); George Van Every (L. S.); Angus Lazore (L. S.); Elon Eels (L. S.), Cayuga Nation; Harry Kettle (L. S.), Seneca Nation.

STATE OF NEW YORK,
County of Onondaga.

Sworn to and subscribed before me this 9th day of February, 1929.

HELEN M. MEEHAND, *Notary Public.*

My commission expires March 30, 1930.

This is a copy. Not the original. What does the abbreviation "L. S." mean?

Mr. KELLOGG. That stands for "legal seal."

Senator THOMAS. Are you employed on a salary?

Mr. KELLOGG. No, sir.

Senator THOMAS. In connection with the work with the Indians?

Mr. KELLOGG. No, sir; I am not.

Senator THOMAS. Have you ever collected any money from the Indians to represent them?

Mr. KELLOGG. I have.

Senator THOMAS. Over a period of how many years?

Mr. KELLOGG. Four and a half years, I think.

Senator THOMAS. Tell the committee about how much you have collected.

Mr. KELLOGG. Well, now, Senator, I have collected money for the Six Nations as well as received money for the Kelloggs. There is a difference between the two.

Senator THOMAS. Tell the committee how much of each.

Mr. KELLOGG. I can not tell you exactly. The treasurer of the Six Nations is here and can tell you how much has come in that has never gone through my hands.

Senator THOMAS. Can you give us some idea about it?

Mr. KELLOGG. The attorneys have gotten something like \$27,000.

Senator WHEELER. What attorneys?

Mr. KELLOGG. Wise, Whitney & Parker.

Senator THOMAS. How much of that have you received?

Mr. KELLOGG. I have nothing to do with the contract in any way, shape, or form; do not come under their contract.

Senator WHEELER. How much money did you collect personally, yourself?

Mr. KELLOGG. For ourselves, do you mean?

Senator WHEELER. How much money did you personally collect, and how much did you get for the Indian tribes?

Mr. KELLOGG. I should judge somewhere around \$50,000.

Senator WHEELER. You got that?

Mr. KELLOGG. I think so. Of course, we have not had that for ourselves. That has gone largely to the Six Nations.

Senator WHEELER. You said you collected that.

Mr. KELLOGG. No; the Stockbridges and Brothertons in Wisconsin; why, Mrs. Kellogg, too. We were through. We helped them organize under the united tribal agreement, and then we quit and did not care to go ahead with it any further. They have their own organization in which they agreed that they should pay the Kelloggs \$1 a month, per member the Stockbridge and Brotherton Indians in the State of Wisconsin. That is what we have been drawing for expenses, and so forth, and a great deal of it has gone into the expenses of the Six Nations to keep up the organization.

Senator THOMAS. You stated a while ago that your claim is for the recovery of 18,000,000 acres of land in the States of New York and Pennsylvania?

Mr. KELLOGG. Or the equivalent.

Senator THOMAS. That is the point I want to get at. What do you claim would be an equivalent of that?

Mr. KELLOGG. Cash.

Senator THOMAS. How much cash?

Mr. KELLOGG. We do not know. It has got to be done by agreement with the United States Government as a party to it.

Senator THOMAS. You have a claim pending in court, or you sought to establish it?

Mr. KELLOGG. We have a claim pending in court for one mile square on which the Aluminum Co. property is located.

Senator THOMAS. Can you give us some idea how much?

Mr. KELLOGG. And they have tried twice to get together with us for a compromise, and have asked and agreed to compromise with us if we have got the United States Government to come in, and compromise with us.

Senator THOMAS. Whom do you mean by "they"?

Mr. KELLOGG. The St. Lawrence River Power Co.

Senator WHEELER. Who are they?

Mr. KELLOGG. It is a corporation owned by the Aluminum Co. of America, situated on this mile square in the State of New York.

Senator THOMAS. What I am trying to get is some idea of the property value of that claim.

Mr. KELLOGG. Our attorneys have told us that we should recover \$500,000,000; but we will never get it—we never expect it.

Mrs. KELLOGG. At least \$500,000,000.

Mr. KELLOGG. At least \$500,000,000.

Senator THOMAS. Your contract calls for 2 per cent?

Mr. KELLOGG. Yes; it does.

The CHAIRMAN. Are you an attorney, Mr. Kellogg?

Mr. KELLOGG. Yes.

Senator THOMAS. That would be \$10,000,000?

Mr. KELLOGG. If we would get anything like that; but you know well enough that we never will.

Senator THOMAS. You would not object, then, would you, to the Senate committee assisting you in helping establish this claim?

Mr. KELLOGG. That is not what we ask. We do not ask the Senate committee to help us establish that claim.

Senator THOMAS. What are you here for?

Mr. KELLOGG. We are here to get the Senate committee to look into the wrongs that have been done to the Six Nations of New York. We want them to make a survey of conditions up there and recommend to the United States Government, or to the Treasury Department of the United States Government, that they intervene and settle this question for all time to come.

Senator THOMAS. You regard this committee, then, as a sort of court of last resort in this matter?

Mr. KELLOGG. No; we do not. The biggest part of this territory has never been in court at all.

Senator THOMAS. Why do you not get in court on that?

Mr. KELLOGG. We can not get in court on all of it, because we have been into it twice on this mile square, and the Federal Government would not come in and intervene in the case.

Senator THOMAS. If that be the case, do you not think any law that we might pass would be set aside by the same courts that have heretofore denied your case?

Mr. KELLOGG. No; I think a recommendation from this committee alone would force the Federal Government to act.

Senator THOMAS. I beg your pardon, I just want to get this idea, so far as I am concerned.

The CHAIRMAN. Proceed, and be as brief as possible.

Mr. KELLOGG. That is about all. We want you to come up and look over the situation in the Seneca country. There we have a city of 20,000 to 25,000 people on leased land.

Senator WHEELER. Land of the Indians?

Mr. KELLOGG. Yes. Every building on that land is paying lease money.

Senator WHEELER. Paying to whom?

Mr. KELLOGG. To Mr. Harrison, collector of lease money.

Senator WHEELER. Mr. Harrison is a representative of the Bureau of Indian Affairs?

Mr. KELLOGG. A representative of the Bureau of Indian Affairs, agent for the Six Nations.

Senator WHEELER. I did not hear the first part of your statement, so that I may be asking some questions that the committee has already heard answered; but you say Mr. Wise is one of the lawyers for the tribe?

Mr. KELLOGG. Yes.

Senator WHEELER. Where is Mr. Wise?

Mr. KELLOGG. He is in New York City.

Senator WHEELER. Why, if you wanted to discuss some legal principles here, did you not have Mr. Wise come here?

Mr. KELLOGG. Because Mr. Wise and the other attorneys asked that I should come. They are in court, and they did not care to come before the committee and take up those matters. The abuses of the Six Nations are a separate thing from anything that is put in court.

Senator WHEELER. Your contention is that the Indians are under the supervision of the Indian Bureau at the present?

Mr. KELLOGG. They certainly are at present. That is, they are not now under any bureau, but under the Government's supervision. The Indian Bureau claims they have not supervision over them to any extent; but the treaty and the law is laid down that they are under the Government, wards of the United States Government, and as such it is up to you people to protect them. With the State of New York there is a dual control there. They have appointed agents under the treaty, but the agents can do nothing but distribute annuities, and they have taken the whole thing into their hands, and have been doing it for 50 years.

Senator WHEELER. I can not understand from your statement, at all, what authority this committee has in the matter. That is the reason I suggested this to you. Are you an attorney?

Mr. KELLOGG. Yes, sir.

Senator WHEELER. I wish you would tell us what authority we have got in the matter under our resolution to assist you in getting into court?

Mr. KELLOGG. You can not assist us in getting into court at all. That is not what we want here.

Senator WHEELER. You were suggesting a moment ago that all this committee had to do was to pass upon it, and if we passed upon it, then we could have the Department of Justice act.

Mr. KELLOGG. I think you could have the Department of Justice state, or the general counsel, to the States of New York and Pennsylvania; not the court.

Senator WHEELER. But this committee has no authority to do anything.

Mr. KELLOGG. But you have authority to look into all things concerning Indian affairs, and this comes under the Indian affairs of this country.

Senator WHEELER. You say first that you are under the Indian Bureau and next that you are not under it.

Mr. KELLOGG. We are not under the Indian Bureau, but under the control of the United States Government.

Senator WHEELER. How do you contend that you are?

Mr. KELLOGG. Made so by the treaties of 1784 and 1796.

Senator WHEELER. What provisions in the treaties? Have you the treaties?

Mr. KELLOGG. I have not got them with me.

Senator WHEELER. Why did you not bring the treaties here?

Mr. KELLOGG. The treaty of 1796 provides this. I can give it to you.

Senator WHEELER. I do not want just your bald statement about it. I would like to get at the facts, and not your conclusions.

Mrs. KELLOGG. May I just say that I presented to this commission—

Senator WHEELER. This is not a commission.

The CHAIRMAN. This is a committee of the Senate.

Mrs. KELLOGG. That I presented to this committee facts which I think entitle the Six Nations to an investigation. In the first place, there is no machinery in the United States Government to which the Six Nations can commit themselves. We are not under the Bureau of Indian Affairs. We have tried it all out. On Capitol Hill there is no one that we can go to, to be heard. The social order of the reservation is very largely affected, and the people are threatened out of their property by the state of things that is created by this.

Senator THOMAS. Would that same condition happen in regard to all Indian tribes if they were turned loose like your tribe has been turned loose?

Mrs. KELLOGG. It would, under the bureau. They have interfered where they have no business to interfere; where they have no right to interfere. Right now they are before the Legislature of the State of New York trying to force the Onondagas out of the little they have.

Senator WHEELER. Who is before the Legislature of the State of New York? What evidence have you of that?

Mrs. KELLOGG. We have here statements in the public press by people of responsibility who have introduced the bill in the State legislature, who claim that they have the promise of Commissioner Burke that there will be no trouble in their securing this from the Onondagas.

Mr. MERRITT. That statement is without any basis of fact whatever.

Senator WHEELER. You mean the statement that the legislator made, if he made it; is that it?

Mr. MERRITT. Yes; that the Indian Bureau is interfering in any way in regard to that matter. Our jurisdiction is very limited so far as the New York Indians are concerned, as I stated to the committee before you came in, Senator Wheeler.

The CHAIRMAN. Have you anything further, Mr. Kellogg?

Mr. KELLOGG. Not until I can find what I am looking for, for Senator Wheeler. Go ahead with one of the other witnesses.

The CHAIRMAN. I understand you have some of the Indians themselves here to be heard.

Mr. KELLOGG. Yes.

TESTIMONY OF CHIEF LOUIS P. OAK

(The witness was sworn by the chairman.)

The CHAIRMAN. Please state your name.

Mrs. KELLOGG. Do you want me to interpret for him, Senator?

Senator WHEELER. You speak English, do you not?

Chief OAK. No.

Senator WHEELER. Have you any education?

Chief OAK. No.

Senator WHEELER. You have been to school, have you not?

Chief OAK. No.

Mrs. KELLOGG. He says he has never been to school.

The CHAIRMAN. Proceed.

Senator WHEELER. Have you not some Indian who can speak English? We can not take up the time of the committee with a witness testifying through an interpreter.

Mrs. KELLOGG. He has a very brief statement to make.

Senator THOMAS. Mrs. Kellogg, do you state to the committee that he can not talk English and can not make a brief statement to this committee in English?

Mrs. KELLOGG. I said he had a brief statement to make.

Senator THOMAS. You do not answer my question.

Mrs. KELLOGG. I did not say that.

Senator THOMAS. Do you tell the committee that it is necessary now for you to act as interpreter for the chief to make a brief statement; that he can not make a brief statement in English so that we can understand it?

Mrs. KELLOGG. I do.

Senator THOMAS. Very well.

(The witness proceeded to testify through Mrs. Kellogg, acting as interpreter.)

Chief OAK. I represent the Mohawk Nation. They live on the boundary line between the United States and Canada. I come from that country which was reserved to the Mohawk Nation by the Six Nations at the time of the treaty of 1784, established between the Six Nations and the United States Government.

Prior to that time each of our nations in the Indian Government sold territory according to a constitution which the ancient civilization possessed, and each gave a fee simple title to those nations like Great Britain, Holland, and a State.

At the present time there is a state of affairs among my people which is very upset, due to the fact that the Six Nations now have found no place to go to be heard. There seems nothing arranged between the Mohawk Nation and the Six Nations and the United States Government, where we may take our troubles. We have left out of all the loot since 1784, a reservation 6 miles square, from

which was sold fraudulently, without the consent of one official of the Mohawk Nation or the United States Government, a mile square of territory upon which the city of Massena and Ordmon is located. Upon that mile square is located the greatest water power in the United States.

Senator THOMAS. From your information, state the name of this water power, so that we can identify it.

Chief OAK. A part of the location is on the Grass River, which is near the St. Lawrence, or into the St. Lawrence.

Senator THOMAS. Has the power been developed?

Chief OAK. Yes; the power has been developed. We have no Indian name for it. It is the location which the St. Lawrence River Power Co. occupies. The development of the Aluminum Co.'s plant is upon this property.

Senator PINE. It is in Canada?

Chief OAK. No; it is in the United States.

The CHAIRMAN. Proceed.

Chief OAK. These people have no title to this territory. The Mohawk Nation never sold it. There were three people who had no authority, who were mixed bloods, and whom we suspect they got, who made the transaction. There are a lot of islands involved, in the St. Lawrence, in the same status as the 1 mile square of Massena.

Senator THOMAS. Let me ask you another question there: Have this Indian tribe ever tried to get a jurisdictional bill through Congress to give them a right to go into the Court of Claims to present any claim they ever have against the Government?

Mrs. KELLOGG. Are you asking me that?

Senator THOMAS. Yes.

Mrs. KELLOGG. No; they have not. They do not consider that the matters belong to the Court of Claims. They have not a claim against the United States Government; they have a claim against the State Government and individuals.

The CHAIRMAN. Would they not have a claim against the United States Government in regard to the violation of the treaty that was made that you have referred to?

Mrs. KELLOGG. After we have tried all over Capitol Hill and find no one wants to hear us on our troubles, and we have no place to go, we shall probably start that action. That is what we want to determine here.

The CHAIRMAN. Let Chief Oak proceed, then.

Chief OAK. What I want to ask this commission to do is to look into the value of that water power, to subpoena the books of the Aluminum Co. that is located upon it; to investigate as to our status on the territory which was originally ours and which we believe we have by every right under the sun. We should like to know where we belong. Our people are getting crowded on the reservation that they now possess. We want those matters ascertained somewhere.

Senator WHEELER. How long ago was it that they took over this power site? I want to know approximately; has it been 8 or 10 years, or 6 years or 2 years or 4 years? Approximately, how many years has it been? I do not want it exactly.

Chief OAK. I can not say exactly the number of years, but it is longer ago than 10 years.

Mrs. KELLOGG. I can answer you on that, Senator. They acquired the property in 1825.

Senator WHEELER. In 1825?

Mrs. KELLOGG. Yes.

The CHAIRMAN. Have you any further statement?

Chief OAK. No.

TESTIMONY OF LIVINGSTON CROUSE

(The witness was sworn by the chairman.)

Mr. CROUSE. I am of the Onondago Nation. I live near Syracuse, N. Y.

Gentlemen, I am here to represent all Onondagas. I am here to tell you some of our troubles on the Onondaga Reservation near Syracuse. We have had considerable trouble with the State, yearly, fighting the State from annihilating the Indians and making them citizens. That is practically what they really want to do, to wipe us out and get us off the reservation.

I am asking this commission to come out and investigate the sand pits that we have out there, and the lease to the stonecutters. We have a valuable stone on the reservation, leased to the Patten-Jones Cut Stone Co., of Syracuse, who are required to lease from the Indians through the Indian State agent.

The CHAIRMAN. Do you mean the State agent or the agent of the Indian Bureau?

Mr. CROUSE. He assumes the right to lease.

Mr. MERITT. It is the agent of the State of New York.

The CHAIRMAN. The State of New York or the department here at Washington?

Mr. MERITT. The State of New York.

The CHAIRMAN. The State of New York?

Mr. MERITT. Yes.

Mr. CROUSE. The agent assumes the right to lease these properties to the people of Syracuse.

Senator THOMAS. Let me ask you a question there. Perhaps it will help me. Have you any complaint against the Indian Bureau that you want to state here? Have they done anything that you do not approve of, or do you want them to do something that they are not doing?

Mr. CROUSE. We have come here to get some help.

Senator THOMAS. I am trying to find out what help you want. That is my purpose.

Mr. CROUSE. I am trying to tell you just what help.

Senator THOMAS. I have gotten the impression that your complaint is against the State of New York.

Mr. CROUSE. Yes.

Senator THOMAS. And you have no complaint against the Federal Government?

Mr. CROUSE. We have a complaint against the Federal Government because she has not done her duty in accordance with the United States treaty.

Senator THOMAS. Tell us in what particular.

Mr. CROUSE. The reason for that was that they have not protected us.

Senator THOMAS. In what particular?

Mr. CROUSE. Under the treaty provisions it is provided that we are to be protected in this 18,000,000 acres of land, and the United States has never done so. Instead of protecting the Indians they have simply slept, laid dormant, and never protected the Indians.

We have considerable property. Statements were made here that we had 18,000,000 acres of land. Now, we have only the 2 by 4 miles square in the Onondaga Reservation, and now the city of Syracuse is threatening to take over for a dam site, and that will flood the Indians entirely out of the reservation.

Senator THOMAS. They propose to pay you, do they not, for your land?

Mr. CROUSE. They propose to pay probably enough to last a week of rations.

Senator THOMAS. The laws of New York provide that no one can take your property without first condemning it. A commission will be appointed to appraise the property, if it is for a public purpose, the court must pass upon that first, and after the appraisal is made and the award fixed, if you are not satisfied, you have a right to appeal to the court and have the matter tried out before a jury of the citizens of the jurisdiction wherein the property lies. Are you afraid that that procedure will not protect you in the amount of actual value of your property?

Mr. CROUSE. I say, yes.

Senator THOMAS. Proceed. I will not bother you any further.

Mr. CROUSE. Yes. In the first place, the State of New York, I do not believe, has any right to condemn the property under the treaty. How could we have condemnation when we are supposed—

The CHAIRMAN. Are you referring to a treaty with the Government, or to a treaty with the State of New York?

Mr. CROUSE. I refer to the treaty of 1784 with the Government.

The CHAIRMAN. Did your Six Nations have treaties also with the State of New York, do you know?

Mr. CROUSE. What do you say?

The CHAIRMAN. Did your people have treaties with the State of New York as well as with the Government of the United States?

Mr. CROUSE. We had State treaties.

Mrs. KELLOGG. Pardon me; you said with the United States. May I answer this under your question, that there is no State treaty with the Six Nations. They are all with separate nations of the Six Nations.

The CHAIRMAN. The separate nations made treaties with the State of New York?

Mrs. KELLOGG. Yes.

Senator WHEELER. Is your contention that the separate nations had no right to make treaties?

Mrs. KELLOGG. Absolutely; under the constitution of the Iroquois and under the Federal Government.

Senator WHEELER. But there is nothing in this treaty that I can see that would prevent the Indians from entering into a separate treaty with the Government.

Mrs. KELLOGG. We have the letters of George Washington and Governor Clinton, and other people who have made a study of those things, together with other historical documents, which are too bulky to state here.

Senator WHEELER. I do not see anything in the treaty. I have been trying to look over the treaty here.

Mrs. KELLOGG. You see, protection was guaranteed the nation. Will you look on page 23, Senator, where the treaty of 1789 specifically provides.

Mr. KELLOGG. The United States Government reaffirmed the treaty of 1784 and added to it that specific language, that no interference would be made in the treaty rights of this tribe. I have a decision here to the effect that the fee of the lands of the Onondaga Indians is claimed by the State, right now, under this mixture of treaties.

The CHAIRMAN. Let the witness complete his statement.

Mr. CROUSE. We also have another development. We have salt pipe lines running through the reservation. They acquired a lease to some of the property from the chiefs, which, as I understand, was given for 25 years, and for which was paid \$25, I believe, that the lease called for. There are 4 miles of that pipe line running through the reservation. The chiefs did not want to do that, because the leakage of that salt would destroy the property along the road. Now, we are having trouble with it. It has spoiled the springs along at the homes of the families, and it destroys the trees—the leakage; and practically there is nothing that can grow on the land where the pipe line runs through; but when you go over the line into the city property, the salt company has to pay about \$40 to \$50 just right across a city lot. They have to pay \$40 there; but on the reservation, 4 miles long, they never pay a cent. Now, the 25 years has been up for a good many years, and it has never been paid, and nothing has been renewed, and we have never received a thing out of it. We tried to take the matter up with Syracuse lawyers, and, I don't know, they do not seem to take interest; and how in the world we are going to do, I don't know; and the fact is, one lawyer, when I asked him what would be the first thing we are going to go against, said: "The first thing is, your property is not appraised. We could not place a valuation."

Now, we have treaties there, so that the Indians there in the reservation are simply nothing. The Indian agent—the State agent—leases: he makes leases for these individuals for agricultural purposes. They have taken practically all of the best land that we have out there, and the Indians have not much land there to work.

Senator THOMAS. Let me ask you a question about that pipe line. You say the pipe line carries salt water?

Mr. CROUSE. Yes.

Senator THOMAS. And the company that operates the pipe line has the line across your property?

Mr. CROUSE. Yes; they had a lease, which expired probably 12 or 15 years ago.

Senator THOMAS. Who looks after this reservation—that is, the tract of 4 miles?

Mr. CROUSE. The chiefs look after it.

Senator THOMAS. Have not the chiefs made any complaint about damage being done by this pipe line, to that company?

Mr. CROUSE. Yes; we have been to the company and told them, and finally they discovered a new spring on the reservation, and piped fresh water for us, because of the complaint of the Indians.

Senator THOMAS. The lease no doubt provides that the pipe line shall be maintained in a good condition, free from leakage, and if it does, and the pipe leaks and destroys your property, it would be a simple matter to require that company—

Mr. CROUSE. I do not believe it specified that. It is just simply a right of way. The State road runs through the reservation, and I believe there is some agreement made with the State along the road of that highway, right in the highway, and of course when the leakage of that salt occurs, it runs down, naturally, into the yards and around the trees, and some valuable fruit trees have been destroyed by it.

Senator THOMAS. Do you want this committee to come up there and look over this matter?

Mr. CROUSE. Absolutely.

Senator THOMAS. And see what damage is being done?

Mr. CROUSE. Yes.

Senator THOMAS. And then to try to protect you against this damage?

Mr. CROUSE. Yes; and I also want to have the commission to look into the quarry lease and sand leases. I want that, also. We are in court with that now.

Senator WHEELER. I do not think this committee has any right or any jurisdiction in that matter at all.

Mr. CROUSE. Well, may I ask who has the jurisdiction?

Senator WHEELER. If the facts are as you say they are, you have a right to sue these different companies for damages in the courts, just as you have a right to go in the State courts up there and sue them.

Mr. CROUSE. Years ago my sister was working in the city, and was on board a street car and the front trolley took the switch and turned the car right end for end into a ditch. That was right in Syracuse, right at the outskirts of the city. The result was that her death was caused by the accident. We immediately sued the street car company. The street car company said this, that since the State has no jurisdiction over the Indians, they have no right to bring actions in the State, and we were thrown out of the court.

Senator WHEELER. I can not conceive of a court holding that.

Mr. CROUSE. It was thrown out of the court; and we again tried, and carried it up into the supreme court of the State. It seems that the supreme court said that the surrogate should appoint administrators over these, and I was appointed as one, to see that all the details and the mortgages, and so forth, were paid, and we finally got a settlement from the street-car company of \$400, after paying the fee of the—

Senator WHEELER. That was not the fault of the Government.

Mr. CROUSE. I know.

Senator WHEELER. The Government has not got anything to do with that.

Mr. CROUSE. Then the Government looks upon that kind of a deal with the Indian, then—

Senator WHEELER. Not at all; but the Government has not any authority whatever. Why, if these Indians are not wards of anyone, are you seeking relief from the Government?

Mr. CROUSE. The Government has some authority over them.

Senator WHEELER. Not at all. I know in the case where the Northern Pacific Railroad runs through the Blackfoot Reservation, if an Indian riding on a Northern Pacific train is killed on that train, his heirs have a lawsuit against the Northern Pacific Railroad, and the United States Government does not enter into it at all. Those cases are perfectly plain.

Mr. CROUSE. Well, it is a question of jurisdiction. We can not get anything from the State. Then, where does the Indian stand? Where does he get his protection? That is what we are here for. Am I an Indian or am I a white man? Tell me that.

Senator THOMAS. I would like to get your viewpoint. What aid do you think should have been given you in either of these cases, in your judgment, by the United States Government?

Mr. CROUSE. I think that the Senate should look and delve into this matter and clear it up, and have it brought before the Senate and Congress, and have a settlement made for the lands that were wrongfully taken from the Indians, and that the question of jurisdiction should be settled once for all on that matter.

Senator THOMAS. Do you think you have a claim against the United States Government for any purpose, or to cover any incident or any neglect of theirs?

Mr. CROUSE. Yes; I think that the United States Government owes us protection, because we gave up all the Ohio Valley for this protection. If that treaty of 1784 is neglected, then where does the United States get its right to that 18,000,000 acres of land?

Senator THOMAS. I am trying to get your case. I do not live in that section, and I am trying to get your idea of what your rights are and wherein they have been violated. I am trying to get all the information I can from your viewpoint.

Mr. CROUSE. Well, you were asking about the question of jurisdiction.

Senator WHEELER. The trouble is that most of these questions are legal questions, and I think it is unfortunate that you did not have your lawyers down here to present the jurisdictional question, so that the committee would get some idea as to whether or not we did have any jurisdiction. I am frank to say to you that on the face of it, under this treaty, unless there is something in regard to it that I do not know about, I do not see where we have any jurisdiction in the matter.

Senator THOMAS. Let me ask you another question. How many Indians do you represent?

Mr. CROUSE. About 500 Indians.

Senator THOMAS. Where do they reside; around Syracuse?

Mr. CROUSE. Around Syracuse.

Senator THOMAS. Do they live on a consolidated reservation, or do they have allotments, or either, or neither?

Mr. CROUSE. No; they have a reservation; a public domain of the Onondagas.

Senator THOMAS. How large?

Mr. CROUSE. About 2 miles wide and about 4 miles long.

Senator THOMAS. Do all those Indians live on that reservation?

Mr. CROUSE. Yes.

Senator THOMAS. Do they have allotments, or have certain tracts of ground been set aside for the use of each family?

Mr. CROUSE. We buy from one another improved land; and we buy from one another only as improved lands. We hold property and houses, and some valuable houses on the premises.

Senator THOMAS. Is this land deeded, and have you patents to it or deeds to it?

Mr. CROUSE. No; we have no patents. We just occupy it. There is a big tract where any Indian can go and clear up and build, and it will be his.

Mrs. KELLOGG. May I elucidate as to that?

Senator THOMAS. Yes.

Mrs. KELLOGG. Under the constitution of the Iroquois there was an individual holding of property among themselves. After that was satisfied, the rest was claimed as a common domain.

Senator THOMAS. And the remnants of this tribe live on this common domain?

Mrs. KELLOGG. They do. Still, they all have their original assignments handed down to their heirs, and a part of it is incumbent to them.

Senator THOMAS. Do they have the right to sell or mortgage?

Mrs. KELLOGG. No right to sell or mortgage. It has not been alienated.

Senator THOMAS. Who has title to it?

Mrs. KELLOGG. The Six Nations; the Onondagas.

The CHAIRMAN. Our time is getting very short. Is there anything further?

Mr. CROUSE. The power company has also come on the reservation and set up a line through the reservation for the purpose of forcing the line through into the city, and they have built a building there and cut off through the Indians' woods for this line, I guess about 14 feet wide where they have cut that timber.

Senator THOMAS. Were the Indians paid for that privilege?

Mr. CROUSE. No; the Indians were not paid.

Now, the State agent under the lease wants to collect on the lease from the stone quarry and on the sand leases, and he wants to take the right away from the chiefs, rather than having the Onondaga treasury do the collecting, as we have always done before; but the State agent is assuming the right and tries to go to these companies, and he takes the money, and wants to take that and put it into the annuities.

The CHAIRMAN. In other words, the State agent of New York assumes the right to lease your property, and the State courts say you have no standing, that there is no jurisdiction, in the courts; is that it?

Mrs. KELLOGG. Absolutely.

Mr. CROUSE. Yes.

Senator THOMAS. Mr. Chairman, I would like to make a suggestion, and give it such publicity as it may deserve, as to all Indian tribes in the United States that have business organizations—and those that do not have business organizations should proceed to

perfect one—that we extend to those tribes the invitation or reserve the privilege of having prepared and furnishing to this committee any suggestions, grievances, claims, or what not, that they would like to have this committee consider. If that could be done, we would have something concrete to act upon and not have to depend upon the statement of a man who does not probably understand what his rights really are.

The CHAIRMAN. I think that is a very good suggestion.

TESTIMONY OF CHIEF ELON EELS, OF THE CAYUGA NATION

(The witness was sworn by the chairman.)

Chief EELS. I come here, and I am very glad to be permitted to appear before the committee, and I want to tell you that I am now residing on the Seneca Reservation, because all my land is disposed of, I supposed; but in the late years I have been kind of investigating, after I became chief.

We had a claim against the State of New York. We got a claim for just the profit share, they call it, on the lands that were sold, and the profit of that. It was sold again, after the State got our lands, and in six months after that they sold it at auction sales at the capitol grounds at Albany, and that was sold for \$4.50 an acre; and they only gave us 50 cents an acre. That is \$4 profit on the acre, and so they allowed us 5 per cent, I think it was, of that profit, and they pay us in the annuity form, which amounted to \$40 a year, and we were getting \$7 a year then.

I know you are in a hurry, and I am just going to give you the main points. I intend to file some statement hereafter, more definite in the details.

After the Senecas heard where we resided, they said, "We want to share." There was the chance for them to come in. The way the attorneys made the bill, it states that the Cayugas wanted to buy the land, or pay for their rights. I did not agree with my attorney. That is not my will, the way he put it, because after that investigation of mine I found out that there was some reservation there; that the Cayugas were just crowded out. We believe we have a tract of land there that never was sold, and that is why I am here. I want your help, if you have got a chance, which I believe you have, to locate that tract of land that was not sold; and so I refused to pay any amount of money to the Senecas by believing I want to go back to my own reservation where I live, where my forefathers lived; and so that is how I refused.

Now, the way I understand, the State officials have been trying, and they have hired some agents to go to work and destroy us. They want to make out a bill, and if we sign that bill, and we pay for the right of staying on their reservation, it would mean that we would have the same rights, the same privileges; and I believe when we come under that agreement it would destroy the Cayuga Nation. That is the way I believe. That is one reason I refused. I want to stay Cayuga, and I want that reservation of mine, where I say we were placed, I think, and I have found, and I was told that there was a reservation there; that we were just crowded out from that. That is the part I would like to look into, and I am asking the help of

this committee here. If you want to ask some questions, I will answer.

The CHAIRMAN. Are there any questions anyone wants to ask?

Chief EELS. As I say, I want to file a statement so that there will be more to it; it will be facts, that is.

The CHAIRMAN. You can send your statement to us and we will consider it.

Chief EELS. Yes.

The CHAIRMAN. Mr. Meritt, do you want to make a statement now?

STATEMENT OF EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS

Mr. MERITT. Mr. Chairman and gentlemen of the committee, referring to the statements made to the committee as to the Cayuga Indians, I would like to read the following paragraph from this House Document, No. 1590, Sixty-third Congress, third session. [Reading:]

The Cayugas also sold their land to the State and gradually migrated westward, locating first in the Ohio Valley, but finally removing to the Indian Territory and becoming affiliated with other tribes there. A few Cayugas still remain in New York, residing principally with the Senecas and Tonawandas—the latter an offspring of the Seneca Tribe—being frequently designated “the Tonawanda Band of Seneca Indians.” The State paid the Cayugas at the rate of 4 shillings per acre and thereafter sold the land for 16 shillings per acre. About 1853, representatives of the tribe began to petition the State for the difference in price between the one paid to them and that received by the State. Finally, in 1909, the legislative assembly authorized the land commissioner to adjust and settle the claim of the Cayuga Indians against the State for a sum not exceeding \$297,131.20, with an additional allowance of \$27,131.20 for legal expenses incurred.

That is just in response to the statement of the gentleman.

As to the Indian problem of the Six Nations in New York, I would like to say that we in the Indian Bureau appreciate the difficulties of this situation. Our jurisdiction is very limited. Under existing laws we do not attempt to exercise administrative functions over the Indians of the State of New York. Those Indians have been living there for hundreds of years. Their land is included within one of the original 13 States. They have treaties with the States as well as with the Federal Government.

Senator WHEELER. When did they enter into those treaties with the States?

Mr. MERITT. When?

Senator WHEELER. Did they enter into a treaty with the State of New York before New York became one of the original States of the Union, or afterwards?

Mr. MERITT. Afterwards.

Senator WHEELER. I notice that this treaty of 1794 apparently recognizes the treaties with the State of New York.

Mr. MERITT. Yes.

Senator WHEELER. Is that your understanding of it? [Reading:]

ART. 2. The United States acknowledge the lands reserved to the Oneida, Onondaga, and Cayuga Nations, in their respective treaties with the State of New York.

Mr. MERITT. The Federal Government recognizes those treaties.

There has been introduced in Congress legislation on this New York situation. There was a bill introduced (H. R. 1735, back in 1914, in the House of Representatives, by Congressman Clancy, I believe, and that bill appears printed in House Document 1590, Sixty-third Congress, third session.

Senator THOMAS. Was that introduced in the New York Legislature or in the United States Congress?

Mr. MERITT. It was introduced in the United States Congress by the Congressman representing those Indians in the House of Representatives.

The Department of Justice made a report on that bill on September 28, 1914. This report was signed by Ernest Knaebel, Assistant Attorney General, and he discussed the situation in New York.

There are also some resolutions by the Board of Indian Commissioners in regard to the New York situation, in this report.

There is also a report by the Secretary of the Interior on this same bill under date of January 22, 1915, in which the Secretary of the Interior goes into the New York Indian situation somewhat.

Back in 1914 I requested Mr. John Reeves, then a law clerk in the Indian Bureau, to go to New York and go into this New York situation and make a report to the Indian Office concerning all phases of it. This report is dated December 26, 1914, and it is printed in this same document referred to.

Mr. Reeves was also kind enough to prepare an appendix giving references to the treaties, and giving statute references, and also other specific references concerning court decisions and leases, relating to the New York Indians. This is a very valuable document on this subject, and we would like to have this document go into the record, because I think there is no document in the possession of the Government that gives so much information on the New York situation as this document, No. 1590, Sixty-third Congress, third session; and if there is no objection we would like to have that printed in this record.

The CHAIRMAN. Without objection, it will be printed in the record.

Senator THOMAS. Your bureau published another document that gives information about the total number of Indians in that State, and the numbers and names of the tribes and location of Indian agencies, and so forth?

Mr. MERITT. Yes.

Senator THOMAS. I personally would like to have a copy of that document, and when I get it I would be very glad to insert that in this record.

Mr. MERITT. Yes, sir; we will be glad to furnish it.

(The two documents above referred to will be found printed at the end of this day's proceedings.)

Senator THOMAS. How many tribes does your bureau exercise jurisdiction over and is it in contact with?

Mr. MERITT. There are about 200 tribes in the United States living on about 190 reservations. There are about 350,000 Indians in the United States and about 225,000 of those Indians are under the jurisdiction of the Federal Government.

Senator THOMAS. Do these several tribes of Indians have, as a rule, a business organization in each tribe representing the tribe?

Mr. MERITT. Some of them do. It depends upon how advanced the Indians are. Most of the Indians have organizations of some kind, either a business committee or a tribal organization.

Senator THOMAS. What would be your reaction to the proposition I made a moment ago, to send out word to these various tribes and ask them to present in a written, concrete form any statement that they care to make, which they, of course, would hope or expect to be of benefit to them, in connection with future legislation?

Mr. MERITT. We would be very glad to have such a statement from the Indian organizations on the various reservations.

Senator WHEELER. The trouble with these Indian organizations you mention on the reservations, is this, that the Indian agents on those reservations seek to control, and in many instances do control, the Indians by appointing as policeman and other things of that kind those who are subservient to the bureau. At least, that is the way it is reported to me.

Mr. MERITT. That is the claim, but I do not think there is much to that.

Senator WHEELER. I have seen some evidences of it in Montana. I do not know how it is on other reservations, but I have seen some pretty practical evidences of it in Montana, the way they have operated there. I do not know what they do in other States.

Mrs. KELLOGG. They do that in New York State.

Senator THOMAS. That might govern as to some feature, but I do not think that would govern as to every claim that the Indians might have, away back. I do not think the Indian agent would deny them the right to present any claim away back. They will never be satisfied until they have these claims presented and have some adjudication on them, and I think the sooner we get into that the better it will be.

Mr. MERITT. When I first went into the department I was a law clerk, and I drafted a general jurisdictional bill that would permit all Indian tribes to go to the Court of Claims. I believe that every tribe in the United States should have an opportunity of presenting their claims to the Court of Claims, and that the Indian should have his day in court.

Senator THOMAS. Are they not getting that now from Congress?

Mr. MERITT. Since that time a great many jurisdictional bills have passed Congress, and there are only a few tribes now that have not had an opportunity to go to the Court of Claims, who have real claims against the Government; and personally, I am in favor of every Indian tribe in the United States having its day in court and having the opportunity to go to the Court of Claims.

Senator WHEELER. Coming back to this New York case, what is there in the treaties that gives the Bureau of Indian Affairs any jurisdiction over the New York Indians at all?

Mr. MERITT. Our jurisdiction is very limited. Congress has not passed legislation giving us jurisdiction over the Indians of New York the same as other Indians in the United States. It is my belief that there is need for legislation affecting the New York Indians.

They are now more or less under the jurisdiction of the State of New York; but there is a twilight zone there, and there is some doubt as to the jurisdiction in some cases, and I think that Congress has authority to pass legislation affecting the Indians of New York State.

Senator THOMAS. Are these Indians affiliated up there? Do they work together in any particular? Are they associated and do they have meetings so that they can get together and form a joint request or memorial to Congress?

Mr. MERITT. They have their local organizations.

Mr. KELLOGG. May I ask one question, believing that it may help out considerably?

The CHAIRMAN. Yes.

Mr. KELLOGG. Mr. Meritt, do you know whether your bureau or the Interior Department or the Federal Government ever went into an agreement with the State of New York whereby they ever assumed jurisdiction?

Mr. MERITT. No; I know of no such agreement.

I think, Mr. Chairman, that I ought not to let pass without a very vigorous denial the statement made by Mrs. Kellogg in regard to the Indian Office attempting to influence either the Canadian Government or the Legislature of New York or any of the officials of the State of New York.

The CHAIRMAN. As I understood Mrs. Kellogg, there was a representative of the bureau here, present up there at the trial in Canada.

Mrs. KELLOGG. Yes; there was.

Mr. MERITT. Yes; we were asked to have a representative there at that trial, to show the records of our office in regard to Mrs. Kellogg and her methods of collecting money from the Indians.

The CHAIRMAN. You were requested by whom?

Mr. MERITT. By the authorities of Canada. I believe it was Mr. Kellogg himself who admitted here this morning that they had collected from the Indians approximately \$50,000 in recent years.

Mr. KELLOGG. Yes.

Mr. MERITT. Our records show that these Indians have been grossly abused in this collecting business. The assertion has been made that they were going to get a large judgment, amounting to many millions of dollars, and if the Indians do not pay the Kelloggs \$1.25 for each member of the family every month, then they are going to be denied participation in this \$500,000,000,000 or \$500,000,000 that they will get after a while.

Senator THOMAS. What do you base that statement on?

Mr. MERITT. I base it on complaints that have been received in the Indian Office and complaints that have been received by the Department of Justice, and just to show the method of defrauding these Indians by these alleged friends of the Indians, who are constantly abusing the authorities so that they can build up sentiment to collect money from these Indians, I would like to have inserted in the record a statement prepared by the Department of Justice on this subject.

Senator THOMAS. Do you have that statement?

Mr. MERITT. We have the statement here.

Senator THOMAS. Is it long?

Mr. MERITT. Not very long. We have information in our files which shows that they have gone so far as to require these poor, helpless Indians to sell their chickens in order to pay them \$1.25 a month, and they have been told that they are going to get this judgment of \$500,000,000, and if they do not pay this money to these people they are going to lose their participation in this judgment.

Senator WHEELER. Mr. Meritt, the thing I am more interested in—of course, if that is going on it should be stopped, but what I am more interested in—is the question as to how we should go about it, if you feel that Congress can help them. I mean, what is the occasion of collecting this information; what was the occasion of the collecting of the information with reference to these people?

Mr. MERITT. The Department of Justice collected the information. There was a complaint made against them by the United States attorney in Wisconsin, that they were defrauding Indians.

Senator WHEELER. Using the United States mails to defraud?

Mr. MERITT. Using the mails to defraud, and also collecting money, personally. It shows that they have been collecting as high as \$500 a month from these poor Indians.

Senator WHEELER. If they were doing what you say they were doing, using the mails to defraud, of course, the Department of Justice should prosecute them for doing it. Has the Department of Justice ever filed any prosecution against them?

Mr. MERITT. They have investigated the cases and found out the methods of collecting the money.

Mr. KELLOGG. Mr. Chairman, may I say—

Senator WHEELER. You just sit down. You have had your say. Now, why was it that the Department of Justice did not prosecute them, if the facts are as you say they are?

Mr. MERITT. They collect this money—

Senator WHEELER. My question is, why has not the Department of Justice prosecuted them, if they are doing as you say?

Mr. MERITT. It is rather difficult to get enough evidence to convict in a matter of this kind, notwithstanding the fact that it is well known that they are actually collecting the money.

Senator WHEELER. But if what you say is true, there is a perfect case against them for using the mails to defraud. If they have been going out and talking to these Indians and telling these Indians that they were going to collect several million dollars, and that they would not be able to participate in it in the event that they did not pay a dollar a head to these Kelloggs, and then, in carrying out this underhand scheme, they used the mails or wrote letters in connection with that, there is a perfect case under the Federal statutes of using the mails to defraud.

Mr. MERITT. We have a great many complaints about it, but it is rather difficult to convict in a case of that kind.

Senator WHEELER. But, Mr. Meritt, I have prosecuted any number of cases of just that sort. Now, there should not be any difficulty in getting a conviction if the facts are as you say they are—not in the least.

Mr. MERITT. As to the remedy for this situation, it is my view that there should be legislation by Congress so as to give a definite jurisdiction to the Federal Government, and so that the line of demarcation between the State government and the Federal Government will

be absolutely clear. We are not seeking additional jurisdiction over any Indians. I would like to have these New York Indians be an example to the Indians in the other States, and be absolutely free and independent of the Federal Government. These Indians have been living for hundreds of years in the State of New York. For the last hundred years they have been surrounded by a civilization and they are now surrounded by the highest civilization to be found in the America.

Senator WHEELER. I can not agree with you on that. [Laughter.]

Mr. MERITT. There is the greatest opportunity in the world for those Indians to stand on their own feet and to be absolutely independent of either the State or the Federal Government, because they have every opportunity to make good in their homes, on their lands. Also, there is every opportunity to find employment in the State of New York in the large enterprises surrounding these reservations.

However, we recognize that those Indians do need assistance to be extricated from this jurisdictional situation in which we find them, and, after investigation, if the Congress wishes as a matter of policy to turn those Indians over to the State government, it will be absolutely agreeable to the Indian Bureau.

On the other hand, if they find, after an investigation, that their interests can be best protected by the Federal Government having jurisdiction in the matter, that will be entirely agreeable to the Indian Service; but we are not seeking further jurisdiction at this time.

Senator THOMAS. Why should not your bureau give this matter some attention and make us some recommendation in the matter?

Senator WHEELER. Yes; I was just going to suggest that.

Mr. MERITT. We have given it some attention; and at the suggestion of the committee we will be glad to give it further attention and to have legislation drafted for submission at the next regular session of Congress. I think it will take—

Senator THOMAS. We can never get any place unless there is a motion made. I move that the Indian Bureau be requested—

Senator WHEELER. Please let me make a remark before you make your motion.

Senator THOMAS. Very well.

Senator WHEELER. I was going to say, I think it would be well for either your legal department or the Department of Justice to analyze these treaties and the laws, and advise the committee with reference to the exact status of the situation, as to whether or not we can legislate with reference to this.

Senator THOMAS. I will make my motion to cover that.

Mrs. KELLOGG. May I say a word before your motion?

Senator THOMAS. I do not care.

Mrs. KELLOGG. I just want to ask the status of this commission; whether this commission is referring to the Indian Bureau under your suggestion the complaints of persecuted people who bring their troubles to this committee?

Senator WHEELER. Let us finish this.

Mrs. KELLOGG. I will be very glad, for the record's sake, too. I do want it.

Senator THOMAS. I move that the Indian Bureau and the Department of the Interior be invited and requested to make a special study of the New York Indian situation and advise the Congress of their legal rights—

The CHAIRMAN. You mean, advise this committee?

Senator THOMAS. That is what it means, of course. They will make the report to Congress, and it will come to this committee, of course. Now, I will continue with my motion and advise the Congress of their legal rights, together with such suggestions for legislation as the Department of the Interior will suggest and recommend.

I think that is broad enough to cover the whole situation.

Senator WHEELER. Yes; it is broad enough to cover it, and if you would include the Attorney General, I think it would be a good idea for the Attorney General to advise us as to the legal status and advise us whether or not we have a right to legislate concerning it.

Senator THOMAS. Would not the Department of the Interior handle that, anyway?

Mr. MERITT. We will be glad to submit our report and to submit a draft of any legislation to the Attorney General for an expression of the Attorney General's view, before transmitting it to Congress.

(Informal discussion, off the record, here ensued.)

The CHAIRMAN. Are there any further remarks as to Senator Thomas's motion? If not, I will put the motion.

(The question was taken, and the motion was agreed to.)

Mrs. KELLOGG. Mr. Chairman, I am very much concerned about those poor chickens Mr. Meritt referred to, and, really, I should think that I better have another time in which to answer Mr. Meritt.

Mr. MERITT. You are not answering Mr. Meritt. You are answering the charges made by the Department of Justice and complaints made by the Assistant Attorney General of the United States.

Mrs. KELLOGG. I want to ask Mr. Meritt if he has included in my black record the evidence secured by subornation of perjury in my arrest at Denver, Colo., by one of his officials, and if he recalls the fact that when I was appearing before the other Senate Committee, of 1916—or 1914 or 1917—the chief of the inspection forces, who was our star witness, committed suicide at the National Hotel so as not to appear?

Mr. MERITT. That has absolutely nothing to do with the case; absolutely nothing whatever.

(H. Doc. No. 1590, 63d Cong., 3d sess., ordered printed in this record, is here printed in full, as follows:)

DEPARTMENT OF THE INTERIOR.

Washington, September 24, 1914.

MY DEAR MR. STEPHENS: I have the honor to acknowledge receipt of your letter of September 16, 1914, transmitting a copy of H. R. 18735, providing for an allotment in severalty of the Indian lands in the State of New York. I note that you have also forwarded a copy of the bill to the Department of Justice.

As the wording of the bill will disclose, the situation respecting the Indian lands in New York is somewhat peculiar. Accordingly I have taken the matter up with the Attorney General in order to obtain his views with reference thereto, and at a later date I shall be pleased to furnish you with further report for the information of your committee.

Cordially yours,

A. A. JONES,
First Assistant Secretary.

HON. JOHN H. STEPHENS,
*Chairman Committee on Indian Affairs,
House of Representatives.*

A BILL Authorizing the allotment in severalty of Indian lands in New York State, 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 Attorney General be, and he hereby is, authorized and directed to institute such suit or suits as may be necessary in the Federal courts of the United States to test the validity and extent of the claim of the so-called Ogden Land Company in and to the lands embraced within any of the Indian reservations in the State of New York.

SEC. 2. That the Seneca Nation, being a corporate body under the laws of the State of New York, by appropriate resolution, agreed to by a majority of the members of the corporate body, on which resolution all the adult members, both male and female, of the Seneca Nation shall have the right to vote, may consent to a division of their lands in severalty and may authorize the president of the Seneca Nation to execute tribal or corporate deeds for particular tracts of land to individual members of the tribe, as hereinafter provided, said deeds to be signed by the president of said Seneca Nation, attested to under the seal of the corporate body by the secretary of said nation, and approved by the Secretary of the Interior.

SEC. 3. That the Secretary of the Interior be, and he hereby is, authorized to appoint a commission consisting of three members, one of whom shall represent the Interior Department, one the Seneca Nation of Indians, and the third to represent the State of New York, to be designated by the governor of said State, subject to approval by the Secretary of the Interior. The commission so appointed shall constitute a board for the purpose of appraising, dividing, and allotting in severalty the surface of the lands of the Seneca Indians in New York, which division or allotment shall be based on an average value of the allotable lands, to be ascertained by dividing the total number of members of the tribe entitled to allotment into the total value of the surface of the tribal lands of the Seneca Nation subject to allotment, as hereinafter provided. The improvements on any of said allotable lands placed thereon by individual members of said nation entitled to allotment, or otherwise owned by them, shall not be included in any appraisalment authorized hereby, nor shall the oil, gas, limestone, or similar deposits of a metalliferous or nonmetalliferous nature be included in said appraisalment, such deposits being hereby reserved for the benefit of the tribe at large and subject to lease for their benefit, as now provided by law. Any and all lands heretofore occupied by or used in connection with any school, church, missionary, religious, cemetery, administrative, or other tribal or governmental purposes shall not be appraised, but all of such lands are hereby specifically reserved from allotment hereunder. Such additional land as in the judgment of the commission may reasonably be needed for future use for school, church, missionary, religious, cemetery, administrative, or other tribal or governmental purposes shall not be included in the appraisalment provided for herein, and the Secretary of the Interior is hereby authorized to withhold such land from allotment or other disposition. The lands included in the villages of Vandalia, Carrollton, Great Valley, Salamanca, West Salamanca, and Red House, the establishment of which was had under the act of February nineteenth, eighteen hundred and seventy-five (Eighteenth Statutes at Large, page three hundred and thirty), or any other legally constituted village or town, shall not be included in said appraisalment. The members of said commission shall be paid a salary of \$10 per day each while actually and necessarily employed, and in addition thereto shall be allowed their actual necessary traveling expenses, including sleeping-car fare, but exclusive of subsistence. Said commission, by and with the approval of the Secretary of the Interior, and at such compensation as may be fixed by him, may employ such clerks, surveyors, timber cruisers, or other assistants as may be necessary to carry out the provisions of this act.

SEC. 4. That the commission authorized to be created hereby shall prepare, or cause to be prepared, a roll, subject to approval by the Secretary of the Interior, showing the membership of the Seneca Indians in the State of New York entitled to share in the distribution of the tribal or corporate assets, and on completion of the appraisalment and ascertainment of the standard value of an allotment or each member's share thereof, such commission shall proceed to allot in severalty to the individuals members of such nation such tract or tracts of land within the Allegany and Cattaraugus Reservations in said State as may

be cultivated, improved, occupied, or selected by such individual members, in such areas, however, as not to exceed the standard value of an allotment. Selections for minor children shall be made by their parents, and selections for orphans shall be made by the commission to be appointed hereunder. No person who is not in being at the time of allotment by the commission shall be given an assignment of land.

SEC. 5. That individual members of the Seneca Tribe desiring to acquire more land than represented by the standard value of an allotment as fixed by said commission may, with the consent of the Secretary of the Interior and under such rules and regulations as he may prescribe, purchase "allotment rights" from other members of the band desiring to sell. All moneys received from the sale of such rights shall be deposited in some suitable bank or banks to the credit of the party selling such rights and shall be subject to all the rules and regulations governing the handling of individual Indian money. The commission created hereby shall keep a complete record of all such sales and shall procure from the individuals selling such "allotment rights" an acknowledgment in proper form that the sale thereby made is a full and complete extinguishment of the right of the person therein named to share in the lands of the Seneca Nation, except such as may be otherwise reserved under the provisions of this act.

SEC. 6. That the Secretary of the Interior shall cause to be prepared and furnished for use of the commission a form of tribal or corporate deed which, in addition to reciting the claim or preemption right of the so-called Ogden Land Company (should such claim be recognized by the courts), shall further recite the retention in the tribe at large of the oil, gas, limestone, and other deposits of a similar nature as provided in section three hereof. Such deeds shall also recite that the lands thereby allotted shall not be subject to lease, sale, mortgage, alienation, taxation, or any other encumbrance for a period of twenty-five years from the date thereof without the consent of the Secretary of the Interior, as hereinafter provided. After approval of the tribal or corporate deeds as herein provided the individual allottees of the Seneca Band may lease their allotments made hereunder for a term of not exceeding ten years for agricultural or grazing purposes, under such rules and regulations as the Secretary of the Interior may prescribe.

SEC. 7. That during the twenty-five-year trust period the land of any individual allottee, with the consent of such allottee, or his heirs in case of death, may again be appraised and offered for sale under such rules and regulations as the Secretary of the Interior may prescribe. If it should be found by the courts that the Ogden Land Company, so called, has a preference right to purchase the lands of the Indians of the Seneca Nation, such individual allotments as may be offered for sale hereunder shall be so offered as to give the said Ogden Land Company, its successors or assigns, a period of ninety days within which to exercise its preference right to first purchase. Should such right not be exercised by said company, its successors or assigns, during such ninety-day period the right of such company, its successors or assigns, to first purchase shall thereby and thereupon become forfeited, and the lands so offered for sale may be sold to the highest and best bidder.

SEC. 8. That upon approval by the Secretary of the Interior of the tribal or corporate deeds in severalty as herein provided the patentees named therein shall thereby become citizens of the United States and amenable to the laws of the United States and of the State or Territory where such allottees may then reside.

SEC. 9. That all of the lands in any and all of the Indian reservations in the State of New York are hereby declared to be "Indian country" within the meaning of the act of June thirtieth, eighteen hundred and thirty-four (Fourth Statutes at Large, page seven hundred and twenty-nine), and all the laws of the United States prohibiting the introduction of intoxicants into the Indian country are hereby extended over and shall apply to all Indian lands in the State of New York until otherwise provided by Congress.

SEC. 10. That the provisions of this act, as far as applicable, shall extend to any and all of the other Indians and reservations in the State of New York.

SEC. 11. That there is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the sum of \$75,000 to enable the Attorney General and the Secretary of the Interior to carry out the provisions of this act.

DEPARTMENT OF JUSTICE,
Washington, D. C., September 28, 1914.

HON. JOHN H. STEPHENS,
*Chairman Committee on Indian Affairs,
House of Representatives.*

DEAR SIR: I beg to acknowledge the receipt of your letter of the 16th instant, inclosing a copy of H. R. 18735, entitled "A bill authorizing the allotment in severalty of Indian lands in New York State, and for other purposes." I lack the information necessary to enable me to make any practical suggestions concerning the New York Indians and their affairs and the practical need of such a measure as this for the amelioration of their condition. Suggestions in these regards will come to you, I presume, from the Secretary of the Interior. Neither am I apprised of the nature of the claim of the Ogden Land Co., which is mentioned in the first section and elsewhere in the bill.

Advising you first that my understanding of the bill and its purposes is derived wholly from the bill itself, I would say that I see no objection to it other than the following:

1. While the bill does not say so expressly, I assume that the Secretary of the Interior, in carrying it out, would be expected to defer the appointment of the commission mentioned in section 3 until after the claim of the Ogden Land Co., whatever it may, had been finally adjudicated. Section 6 provides that the deeds hereafter to be delivered to the allottees by the commission shall recite the existence of that claim if "recognized by the courts." It can not well be the intention to appoint the commission possibly years before the final adjudication can be accomplished, and therefore I take it for granted that the appointment should not take place until after the claim of the Ogden Land Co. had been passed upon by the highest appellate court to which it could go (doubtless the Supreme Court of the United States) in the case contemplated by section 1, unless possibly, the Attorney General, upon being defeated by the company in a lower court, should conclude to abandon the litigation there. It may be that your committee could make the bill more definite here.

2. It has been suggested to me that the provision in section 4 that "no person who is not in being at the time of allotment by the commission shall be given an assignment of land" may cause trouble. The process of allotment may continue through a considerable period of time and new members of the tribe may be born during the period. It would be well, I think, to provide affirmatively that when the roll mentioned in section 4 shall have been prepared by the commission and approved by the Secretary of the Interior, it shall be deemed final and conclusive upon the right to allotment in so far as any children born thereafter may be concerned.

3. Section 5 allows individual members to buy the allotment rights of other members "with the consent of the Secretary of the Interior and under such rules and regulations as he may prescribe." This provision, as far as I know, is not found in any allotment act heretofore passed. A mere novelty, however, is no objection. The principal things to be guarded against in all legislation of this sort are improvidence and overreaching. As, in this instance, the transactions contemplated are only permissible with the consent of the Secretary of the Interior and under his rules and regulations, I have no criticism to make upon this part of the bill save that it may involve undue complexities of administration.

4. Section 6 allows conveyance of allotted lands by the allottees after 25 years from the dates of the tribal deeds. Restraints of this sort are attached to allotments upon the theory that the allottees are incapable of managing their own affairs. While it has been customary to name a definite date after which the allottees may convey, I submit that experience has demonstrated the folly of assuming in this manner that the average Indian, incompetent to-day, will become competent within any period arbitrarily fixed. On the contrary, it is safe to assume that the average adult who is not competent now will never become competent as long as he lives to safeguard his own interests. Consequently these legislative presumptions of competency not only fly in the face of well-known facts, but, it seems to me (and I make the suggestion with much deference), are indulged in with too much regard for the idea of getting rid of the Indian and developing his property and too little regard for protecting

and developing the Indian himself. I would advise, therefore, that instead of fixing a definite period, as is done in section 6, the section be amended to declare that none of the lands allotted shall be subject to taxation or to any form of alienation, encumbrance, or lease, while in the ownership of the allottees or their heirs, except in respect of such persons as the Secretary of the Interior, upon special inquiry, shall have adjudged to be competent to manage their own affairs.

In line with this suggestion it seems to me that the 10-year period of lease authorized in the last sentence of section 6 is probably too long.

5. The use of the expression "trust period" in section 7 may be objectionable from a technical standpoint. If the tribe owns the fee there is, properly speaking, no trust affecting the allottees' title under the tribal deeds other than the general power of guardianship residing in the Government. I assume that the tribe does own the fee; but if the fee be in the United States, then I would suggest the propriety of some provision whereby that title may be conveyed when the time comes for the removal of all restrictions.

6. Section 8 provides that upon approval of the tribal deeds the patentees named therein shall become citizens of the United States and amenable to the laws of the United States and of the State or Territory where they may then reside. Provisions like this, particularly the declaration subjecting the individual to the laws of the State, are constantly being revoked in the courts as an obstacle to the power of the Government to protect the incompetent Indian by legislation or by litigation instituted in his behalf. Out of abundant caution, therefore, I would suggest the insertion at the end of section 8 of the following proviso: "Provided, That the protective powers of the Government of the United States in respect of the said Indians and their property shall not be affected thereby."

A declaration of this sort, though not, in my opinion, necessary, may serve to forestall much useless litigation and controversy.

For the Attorney General,

Respectfully,

ERNEST KNAEBEL,

Assistant Attorney General.

Mr. Clancy, from the Committee on Indian Affairs, submitted the following report (to accompany H. R. 18735):

"The Subcommittee on Indian Affairs, to whom was referred the bill (H. R. 18735), authorizing the allotment in severalty of Indian lands in New York State, and for other purposes, having considered the same, report thereon with a recommendation that the bill be amended as proposed by the Department of Justice and the Department of the Interior and be given further consideration by the whole committee.

"The legislation proposed in this bill is of such vast importance to the Indians of New York State, which has an Indian population greater than any other State east of the Mississippi River, that it should receive the very careful attention not only of the entire committee but of Congress, and in order that this subject may be thoroughly understood by those interested attention is called to the very complete report of the Office of Indian Affairs, Department of the Interior, as to the whole New York State Indian situation, which follows:

"J. R. CLANCY.

"DENVER S. CHURCH.

"C. M. HAMILTON."

The Lake Mohonk conference on the Indian and other dependent peoples have had for some years a committee on New York State Indians, which at their conference on October 14, 15, 16, 1914, reported as follows:

"Your committee rejoices that in the further advancement of this work a bill was introduced into the House of Representatives on September 10, by Mr. Clancy, of New York, known as bill No. 18735, granting authority to the Attorney General of the United States to institute the necessary suit or suits in the case, providing for the appointment of a commission to appraise the Indian lands and to divide and allot them in severalty, and making the Indians thereafter citizens of the United States and subject to the laws of the State of New York. Your committee recommends that the conference express its approval of

the action of the board of Indian commissioners and of the general plan of the House of Representatives bill referred to and that the committee of the conference on the New York Indians be discharged.

"JAMES WOOD, *Chairman.*

"JOHN J. FITZGERALD.

"CHARLES E. LITTLEFIELD.

"REGIS H. POST.

"DANIEL SMILEY."

The report presented by Mr. Wood was accepted by the conference, and the committee on New York Indians discharged with thanks for its services.

DEPARTMENT OF THE INTERIOR,
Washington, January 22, 1915.

HON. JOHN H. STEPHENS,
*Chairman Committee on Indian Affairs,
House of Representatives*

MY DEAR MR. STEPHENS: Reference is again made to your letter of September 16, 1914, transmitting a copy of H. R. 18735, providing for an allotment in severalty of the Indian lands in the State of New York.

Section 1 is designed to confer authority on the Attorney General to institute proceedings to test the validity and extent of the claim of the so-called Ogden Land Co. in and to the lands embraced within any of the Indian reservations in the State of New York, while the remainder of the bill contemplates an allotment in severalty of these lands as they now stand by making the tracts of individual allottees still subject to the claim of the company, if any such exists.

It is not deemed necessary here to go into an extensive resumé of the history of the claim of the so-called Ogden Land Co., as this matter has previously been before the Congress in various forms. (See Senate Executive Document No. 52, Fifty-third Congress, third session, and Senate Executive Document No. 154, Fifty-fourth Congress, second session; also hearings on House bill 1270, Fifty-seventh Congress, and House bill 7262, Fifty-eighth Congress.)

For the information of your committee, however, it may be briefly stated that the Indian reservations in New York consist of the following:

"The Allegany Reservation, lying in Cattaraugus County, embracing 30,469 acres, with an Indian population of about 923.

"The Cattaraugus Reservation, lying mainly in Erie County with a small part falling also in the counties of Chautauqua and Cattaraugus, embracing an area of 21,680 acres, with an Indian population of 1,291.

"The Oil Spring Reservation, containing 640 acres, lying partly within Allegany and partly in Cattaraugus Counties.

"The three reservations above mentioned all belong to the Seneca Indians.

"The Tuscarora Reservation, embracing 6,249 acres, lies within Niagara County and has an Indian population of 460.

"The Tonawanda Reservation, containing 7,549 acres, with an Indian population of 489 members, lies partly in Erie, Genesee, and Niagara Counties.

"The Onondaga Reservation, embracing 6,100 acres, with an Indian population of 541, lies in Onondaga County, about 5 miles south of the city of Syracuse.

"The St. Regis Reservation, embracing 14,640 acres, lies in St. Lawrence and Franklin Counties, and has an Indian population on the American side of some 1,400 members. The Canadian Government has also provided a reservation for the St. Regis Indians, embracing some 12,000 acres, which adjoins the reservation in New York along the international boundary. The tribe is about evenly divided in population on the American and Canadian sides.

"The Shinnecock Reservation on Long Island embraces but 450 acres, with an Indian population of about 400."

The claim of the so-called Ogden Land Co. covers only the Allegany and Cattaraugus Reservations and 1,920 acres of the Tuscarora Reserve, and its origin antedates the Federal Constitution. Shortly after the close of the Revolutionary War a dispute arose between the Colonies of Massachusetts and New York over certain territory now embraced in the western part of the latter State, under conflicting grants or charters from the British Crown. The dispute was first submitted to the Continental Congress and a court was appointed to try and determine the cause. It was settled amicably, however, between the two States by convention December 16, 1786. A compact was

drawn under which New York retained the right of government, sovereignty, and jurisdiction, but ceded to Massachusetts the right of preemption from the native Indians and such other right as the State of New York had. By a separate article in the compact Massachusetts was empowered to sell, assign, or otherwise convey such title as she derived. This the State of Massachusetts promptly proceeded to do, and the territory in which the Allegany, Cattaraugus, Tuscarora, and Tonawanda Reservations is located was sold by Massachusetts to Robert Morris in 1791. Several mesne conveyances transpired until we find the present claimant to be the Ogden Land Co., so called, which, however, is not incorporated.

Whatever claim the company had in and to the lands embraced within the Tonawanda Reservation was effectually extinguished by payment of the sum of \$100,000 in accordance with the appropriation made and authority conferred by article 3 of the treaty with the Tonawanda Indians dated November 5, 1857 (11 Stats., 735). The Tuscarora Indians, who at one time lived in North Carolina, sold their lands in that State about the year 1800, realizing therefrom approximately \$15,000. This money was deposited with the United States in trust, and in 1804 Congress authorized the Secretary of War to purchase additional land for these Indians. With this money, 4,329 acres lying south and east of 1,920 acres which had previously been given them by the Seneca Indians and the Holland Land Co. were purchased from the latter company, which effectually extinguished the preemptive right against these 4,329 acres within the reservation. The Holland Land Co. was the predecessor of the present claimant, the Ogden Land Co.

Much doubt seems to exist even among the courts, if conclusion can be reached from the decisions handed down, as to the exact nature of the claim of the Ogden Land Co.; many decisions holding in effect that the title acquired by the company through purchase from the State of Massachusetts is an "ultimate fee," and "absolute fee," a "naked fee," a "qualified fee," etc. Other decisions tend to hold that the only right acquired by purchase from Massachusetts was simply the right of preemption, or a first right to purchase when the Indians agreed to sell. Persons whose opinions are not without weight have even suggested that the company has no valid claim against these lands, basing their opinion on the ground that New York had no power to sell to Massachusetts nor Massachusetts to convey to its assignees. Be this as it may, we find that the claim has stood and been recognized repeatedly by the courts, both of the State and of the Nation, and it is not seen how the validity of the claim, whatever may be its nature, can well be denied at this late date. The courts of both the Nation and the State have also repeatedly denied the right or power of the claimant company in any way to interfere with the right of possession by the Indians, and for practical purposes the claim of the company is valueless in so far as the production of annual revenue is concerned.

When last approached on the question of disposing of their claim representatives of the company placed what was regarded as a fictitious value thereon. (H. Doc. 309, 54th Cong., 2d sess., and hearings on H. R. 12270, 57th Cong., and H. R. 7262, 58th Cong.) Some effective method of disposing of the claim, however, is desirable, in order that the objects designed to be accomplished by sections 2 to 11 of H. R. 18735 may be worked out.

The department is not prepared to state whether the plan suggested in sections 2 to 11 of the bill is feasible, but in connection therewith invites attention to a decision by the Supreme Court of the State of New York in the case of the Seneca Nation of Indians against Charles E. Appleby, surviving trustee of the Ogden Land Co., which decision will be found reported in 127 appellate division (New York reports), page 770. In its decision in that case the court, through Judge Spring, used the following language:

"The affirmance of the judgment (of the lower court) does not establish the proposition that if the plaintiff becomes disintegrated that the defendant's title will vest in possession at once. Allotment among the individual Indians by the plaintiff has been permitted for a considerable period by the National Government. Inheritance is allowed in accordance with the statutes of the State of New York, and conveyances amongst the Indians are also allowed. It may well be held that even though the nation in its tribal capacity should be dissolved, if the individual Indian holds his land by virtue of this recognized method of allotment, that the occupancy will continue to his remote descendant."

The case was appealed by the Indians and the appellate court in its decision dismissed the entire proceedings on the ground that the Indians were without power to sue and that the courts of the State had not been authorized to hear and determine the case. (196 New York Supreme Court Reports, 318.)

Should the courts find room to hold that the lands within these reservations covered by the claim of the Ogden Land Co. can be allotted in severalty without a vesting of the right of that company to immediate possession it would appear the most feasible solution of the difficulty, in so far as the adjustment of the claims of that company is concerned, but since the introduction of the bill (H. R. 18735) a representative of the Indian Office has visited the reservations in that State with a view of ascertaining present conditions there. It is found that as a matter of fact practically all of the lands within the various Indian reservations in that State have already been allotted in severalty or divided among the tribal members many years ago under State laws by the tribal organizations, and that there is practically no surplus tribal or communal land available for further allotment at this time or for distribution to those younger members of the tribe who are now without land. The tribal division so made has been recognized by the tribal organizations, by the membership at large, and by the courts of the State, until any disturbance of the present claimant would result in great dissatisfaction and no doubt in many cases gross injustice.

Some of the shrewd, far-sighted members of the tribes, by inheritance, by purchase from other members or otherwise, have acquired holdings largely in excess of a pro rata division of these lands among the present tribal membership. These holdings in a large number of cases have been improved with modern homes, excellent barns, and equipped with up-to-date farming implements. Where the title thus acquired has been by inheritance or by purchase it would hardly be just to deprive the present holders of any part of their lands without just compensation therefor. It should be understood, of course, that these people are without power to alienate their lands to persons other than members of the tribe, but sales have taken place between members of the same tribe, in many cases evidenced by deeds placed of record in the proper county, and these transfers and sales have been taking place practically for the last 25 years.

On the other hand, there is a great need for some feasible solution of the problem. Congress by treaty with these Indians has guaranteed them peaceful possession of the soil (treaty of Nov. 11, 1794, 7 Stats. 44), and the Supreme Court of the United States has denied the State the right to tax their lands. (The New York Indians, 5 Wall. 761.) The State, therefore, is powerless to compel an adjustment of the situation, has been denied the right to tax, and can take no steps to make these lands subject to taxation without the assent of the Federal Government, yet the State has been under the burden of providing these people with adequate school facilities, maintaining highways over their reservations, and such police supervision as has been exercised over these **people which has been greatly deficient.** The "Indian population" in New York, recognized as members of the various tribes there, exceeds 5,000, but it has been found on investigation that the number of full bloods among these people is very limited, with possibly even less than 500 half bloods in the entire State, and so many so-called "Indians" with such a large percentage of white blood that only the closest scrutiny would disclose any Indian characteristics.

These people are fully equipped from an educational, civilization, or financial standpoint to stand upon their own feet. They should have been made citizens by allotment in severalty and the dissolution of tribal organizations years ago. There is great need, therefore, of some workable plan by which this end can be reached, but the limited information as to present conditions on these reservations acquired by the brief examination heretofore made does not place the department in a position to suggest the most feasible course to pursue. A detailed survey of each reservation would be necessary in order to ascertain the present claimant or holder of each acre therein, the manner in which title was acquired, the number of Indians without land and their right to membership in the tribes, etc., before any just solution could be offered. Doubtless the conditions on the different reservations would be found so far at variance that one bill designed to fit conditions on all reservations could not well be formulated. Each reservation should be made the subject of a separate investigation and special study with a view of suggesting some feasible course to pursue with reference to the conditions on that particular reserve.

Again, an extinguishment of the claim of the Ogden Land Co. or a final decision by the courts on the exact extent and nature of that claim appears necessary before further procedure can well be had. With this idea in view it may prove advisable to eliminate sections 2 to 11, inclusive, of the bill, which would enable the Department of Justice to bring about an authoritative determination of the matter. By letter dated September 28, 1914, the Department of Justice submitted to you a report on the bill, but did not raise any specific objection to section 1. It is presumed, therefore, that that department has no objection to offer to the procedure outlined in this section of the bill.

As it is understood that the Indians are uniformly opposed to the disturbance of present conditions and that the provisions of H. R. 18735, found in sections 2 to 11, inclusive, do not accord with conditions on the various reservations in the State of New York, it is respectfully recommended that these sections be eliminated from the bill and section 1 be amended by striking out the period after the word "York," in line 8, and adding thereto the following:

"with the right of appeal to the Supreme Court of the United States by either party to the proceedings, and jurisdiction is hereby conferred on such courts to hear and determine the cause."

There should also be a provision appropriating sufficient money to enable the Department of Justice to carry out the provisions of the law, but I am not sufficiently advised in the premises to offer a suggestion as to the specific amount.

For the further information of your committee I am inclosing a copy of a report by the representative of the Indian Office detailed to investigate conditions on the Indian reservations in the State of New York; also copy of a petition signed by a number of Tuscarora Indians, protesting against the passage of the bill, which petition was received by the Indian Office on January 12, 1915.

Cordially,

FRANKLIN K. LANE.

WASHINGTON, D. C., *December 26, 1914.*

The honorable the COMMISSIONER OF INDIAN AFFAIRS.

SIR: Assistant Commissioner Meritt, being firmly impressed with the necessity of taking some definite action looking to an effective solution of the New York Indian problem, instructed me orally in the early fall of 1913 "to get to the bottom of it," if possible. Later you authorized me in writing to visit the several reservations in that State so as to present existing conditions there. The question has proven of great interest and increasing importance as the investigation progressed. Mr. Meritt's conviction "that something should be done" is undoubtedly correct, as the facts hereinafter presented will show. Present conditions on these reservations are so directly traceable to the time when this country was first occupied by the Europeans that a brief recourse to colonial history is essential.

Early colonists in what is now western New York found the country more or less densely populated by aborigines of various tribes, principally the Senecas, Cayugas, Onondagas, Oneidas, and Mohawks. These five tribes or nations were united in a common league, known among themselves as Ho-de-no-sau-nee, but generally designated by the whites as "Iroquois," and were much feared during the early days. In the Iroquois council the Onondagas, as the founders of the league, kept the central fire; the Mohawks guarded the eastern portal, and the Senecas the western. The Oneidas were stationed between the central fire and the east, while the Cayugas occupied a similar position in the west. One can but pause to wonder if exploration into ancient traditions of these people would not disclose an organization bordering strongly on free masonry.

About 1710 the Tuscaroras, then living in North Carolina, became involved in quarrels with white settlers and adjoining Indian tribes there. Having been severely defeated in battle they migrated to New York and were formally united with the five tribes just mentioned, thus making the Six Nations of New York, by which name these Indians are now most commonly known. At the period of its greatest strength—the latter part of the seventeenth century—the Iroquois league numbered 15,000 souls, and even to this day the union still continues to some extent, although its component membership as to tribes has materially changed.

With the exception of the Oneidas and a part of the Tuscaroras, these Indians sided with the mother country in the Revolution and were left unmentioned and unprovided for in the treaty of peace between Great Britain and the confederated Colonies. Naturally considerable unrest existed among them at the close of the Revolution, due to the fact that in the main they had sided with the losing party in that great struggle. The Mohawks moved to Canada and settled on lands provided for them by the British Government, where a remnant of this tribe still lives. By treaty the Mohawks ceded to the State whatever title they had to any land in New York, and subsequently the St. Regis Indians were formally adopted by the Six Nations in place of the Mohawks.

The Cayugas also sold their land to the State and gradually migrated westward, locating first in the Ohio Valley, but finally removing to the Indian Territory and becoming affiliated with other tribes there. A few Cayugas still remain in New York, residing principally with the Senecas and Tonawandas—the latter an offspring of the Seneca Tribe—being frequently designated “The Tonawanda Band of Seneca Indians.” The State paid the Cayugas at the rate of 4 shillings per acre and thereafter sold the land for 16 shillings per acre. About 1853 representatives of the tribe began to petition the State for the difference in price between the one paid to them and that received by the State. Finally, in 1909, the legislative assembly authorized the land commissioner to adjust and settle the claim of the Cayuga Indians against the State for a sum not exceeding \$297,131.20, with an additional allowance of \$27,131.20 for legal expenses incurred.

The Oneidas also, by various treaties, sold all of their land, except about 350 acres, to the State, and removed to the reservation in Wisconsin procured from the Menominees by treaty with the Federal Government. The 350 acres in New York belonging to the Oneidas have long since been divided in severalty under State laws, and as a tribe these Indians are known no more in that State. Six tribes still remain in New York, to be regarded as of any importance at this time, viz. the Senecas, Tonowandas, Tuscaroras, Onondagas, St. Regis, and Shinnecocks, the latter, however, never having formed a unit in the Six Nations, although at one time they did pay tribute to the Mohawks. A brief statement as to the status of the lands in each reservation is here presented in order that a clearer understanding of the matter may be reached.

The Allegany Reservation, claimed by the Senecas, contains 30,469 acres, and is located on both sides of the Allegany River in Cattaraugus County, N. Y. It is about 40 miles long and averages from 1 to 3 miles in width. It is a part of the area specifically reserved to the Seneca Indians in the treaty with Robert Morris at “Big Tree,” September 17, 1797. This entire reservation is subject to the “preemption right” or “claim” of the Ogden Land Co., to which reference is hereinafter more fully made.

The Cattaraugus Reservation contains 21,680 acres, located principally in Erie County, a small part lying in each of the counties of Cattaraugus and Chautauqua. This reservation was conveyed to the Seneca Indians by Wilhelm Willnick et al., predecessors of the Ogden Land Co., by agreement dated June 30, 1802 (7 Stats. 70), in return for which the Seneca Indians surrendered to the company certain other lands which had been reserved to them by the treaty at Big Tree. This reservation is also subject to the preemption right of the Ogden Land Co., such right being specifically retained in the agreement referred to.

The Oil Spring Reservation, located partly in Allegany and partly in Cattaraugus Counties, contains only 640 acres. Its name is derived from a muddy pool, about 20 feet in diameter, located near the center of the tract, from which the Indians formerly gathered a sort of crude petroleum locally known as Seneca oil, and which was used quite extensively by them in early days for medicinal purposes. The Senecas fully understood that this tract was reserved to them in the sale to Robert Morris at Big Tree, but this fact does not appear from an examination of the treaty itself. At any rate, this reserve was included in a sale by Robert Morris to the Holland Land Co., so called, and several mesne conveyances transpired until by deed dated February 28, 1855, one Philomeus Pattison became the ostensible owner of a part thereof. On taking possession the Seneca Indians promptly began an action in ejectment against Pattison. A verdict in favor of the Indians was rendered by the lower court; the case was appealed to the supreme court of the State and finally to the court of appeals, both of which affirmed the decision of the trial court, and the Indians have since remained in undisturbed possession. A written opinion of the case does not appear to have been handed down, but the pleadings, transcript of

evidence, judgment, and decree of the court are still on file in Little Valley, the county seat of Cattaraugus County.

The Onondaga Reservation contains 6,100 acres and is located in Onondaga County, about 5 miles south of the city of Syracuse. Prior to 1793 this reservation embraced something over 65,000 acres. March 11 of that year, however, the Indians sold over three-fourths of their reservation to the State, and by subsequent treaties in 1795, 1817, and 1822 the reservation was reduced to its present area. Under State laws these Indians are authorized to lease land owned or possessed by individuals and small areas within the reservation are so leased. The lands within this reservation are not covered by the claim of the Ogden Land Co.

The Tonawanda Reservation now comprises but 7,549 acres lying partly in Erie, Genesee, and Niagara Counties. Originally it comprised upward of 45,000 acres, being a part of the lands reserved to the Seneca Indians in the sale to Robert Morris at Big Tree. This reservation was conveyed to Thomas Ludlow Ogden and Joseph Fellows by agreement with the Six Nations, dated January 15, 1838 (7 Stats., 550), and the subsequent treaty with the Senecas of May 20, 1842 (7 Stats., 586). The lands embraced within the present reserve were repurchased from Ogden and Fellows for the sum of \$100,000, in accordance with article 3 of the treaty with the Tonawanda Indians, dated November 5, 1857 (11 Stats., 735). Title was first taken in the Secretary of the Interior, who held the lands until February 14, 1862, on which date, by deed, they were conveyed to the comptroller of the State of New York "in trust and in fee for the Tonawanda Indians." This settlement effectually extinguished whatever preemption right the Ogden Land Co. ever had in and to the lands within this reservation.

The Tuscarora Reservation lies in Niagara County about 9 miles northeast of Niagara Falls, and contains 6,249 acres. The Tuscarora Indians having been adopted by the Iroquois League as one of the Six Nations, by deed dated March 30, 1808, the Seneca Nation granted 1 square mile (640 acres) to the Tuscarora Indians. (Liber 1, folio 56, Land Records of Niagara County.) It is reported that subsequently the Holland Land Co., assignee of Robert Morris, "ratified" this grant, and gave to the Tuscaroras 1,280 acres more, but no record of any paper title to this effect can be found. At any rate, the Tuscaroras occupy and claim these lands as a part of their present reserve, which are subject to the preemption right of the Ogden Land Co. (7 Stats., 560), although the Indians deny this, basing their claim on a decree of the State court in Buffalo, handed down in 1850. This suit resulted from an agreement with the Federal Government, January 15, 1838, under which the Six Nations were to remove west of the Mississippi River, and in anticipation of their removal the chiefs of the Tuscarora Tribe executed a deed to Thomas Ludlow Ogden and Joseph Fellows, predecessors of the Ogden Land Co., conveying to said Ogden and Fellows, as owners of the preemptive right, the 1,920 acres last referred to. The deed was placed in the hands of Herman B. Potter, in escrow, pending the performance of certain conditions precedent to delivery. The expected removal failed to materialize and in 1849 William B. Chew et al., chiefs of the tribe, instituted suit against Herman B. Potter and Joseph Fellows (Thomas L. Ogden then being deceased), looking to a surrender and cancellation of the deed. A verdict in favor of the Indians was rendered and the deed canceled by decree of the court, which resulted only in placing the matter in statu quo, as far as the preemptive right of Ogden and Fellows was concerned. The execution of the deed was an admission of the existence of the preemptive right, and the contention of the Indians that the decree of the court canceling the deed also effectually extinguished the right of preemption in the Ogden people does not appear well founded. The records in the case are still on file in the county clerk's office at Buffalo.

About the year 1800 a delegation of Tuscarora Indians visited the governor of North Carolina and negotiated a sale of their lands in that State for approximately \$15,000 which money was deposited with the United States in trust. In 1804 Congress authorized the Secretary of War to purchase with this money additional land for these Indians. With these funds 4,329 acres, lying to the south and east of the 1,920 acres already occupied by them, were purchased for the Tuscarora Indians. Title to these lands was taken by the Secretary of War in trust for the Indians, but subsequently (January 2, 1809) the lands were conveyed directly to the Tuscarora Tribe, who now own the fee. (Book "A," p. 5, Niagara County clerk's office.)

The St. Regis Reservation contains 38,890 acres, of which 24,250 acres fall within the Dominion of Canada. The remaining 14,640 acres on the American side lie in Franklin County, N. Y., and were secured to these Indians by treaty with the State, in consideration for which they surrendered certain other lands claimed by them. The Ogden Land Co.'s claim never comprised any part of the lands within this reserve.

The Shinnecock Reservation, containing some 450 acres, is located on a neck of land running into Shinnecock Bay, Long Island. Southampton was an early colonial town, established in the seventeenth century, and the town trustees negotiated with "Shinnecock," chief of the tribe, for a sale of the lands. Tribal tradition has it that the chief sold out to the whites and skipped with the money. While this does not comport with accepted ideas of the honesty and integrity of aboriginal chiefs, yet it is a matter of record that the town trustees of Southampton in the early days gave a lease for a thousand years to the Shinnecock Indians covering some 3,600 acres, known as the Shinnecock Hills and Shinnecock Neck. Matters stood thus until about the middle of the nineteenth century, when the town had developed to such an extent that a more satisfactory arrangement was desired. Accordingly, in 1859 the State authorized the town trustees to negotiate with the Indians for a cession of their leasehold estate. An agreement was reached, under which the Indians surrendered the hills, in exchange for which they received in fee Shinnecock Neck. The agreement is recorded in volume 3 of the town records of Southampton, at page —.

The above covers all of the reservations in New York to be regarded as any importance at this time, but in passing mention may be made of the Poosepatucks, of mixed Indian and negro descent, who did occupy a small reservation of about 50 acres, also on Long Island, near the mouth of the Mastic River, being a part of the tract of 175 acres conveyed to the tribe by Col. William Smith, governor of the Territory, July 2, 1700, "to the intent sayd Indians, their children, and posterityte may not want sufficient land to plant on forever." Also the Montauk Tribe who occupied Montauk Point, the northeastern extremity of Long Island, which was included in a patent issued in 1686 by Governor Dongan to "the freeholders and inhabitants of the town of East Hampton." This grant was made subject to the Indian right of occupancy, but also carried "the perpetual and exclusive right to purchase same from the Indians." Within comparatively recent years the remnant of this tribe sold their title to this land to one Benson, and these Indians, as a tribe, no longer exist as such, having individually become absorbed in the body politic. *Pharoh v. Benson* (69 Misc., N. Y., 241). These Indians also intermarried so largely in the early days with negroes that their nationality as "Indians" became extinct long ago.

The Cornplanter Reservation in Pennsylvania lies just below the line between New York and the former State. The reservation originally comprised 1,500 acres "granted in fee" by Pennsylvania March 16, 1796, to Cornplanter and his heirs. Subsequently, in 1871, the State authorized the appointment of commissioners to divide these lands in severalty among "Cornplanter's descendants and other Seneca Indians." This was done and the land was divided and allotted to 93 Indians, without power, however, to sell to persons other than descendants of Cornplanter, or other Seneca Indians.

These small reservations, used in common, afforded only a haven of refuge to possibly otherwise homeless persons and for all practical purposes may be eliminated from further consideration. The same might also be said of the Oil Spring Reservation, containing as it does, but 640 acres, retained by the Indians in the early days largely from sentimental reasons.

Conditions on the remaining reservations show a crying need for reform. Naturally one casts about for the reasons why these conditions should have so long been permitted to continue. First among these we find the question of jurisdiction over these Indians, State and Federal. Much needless confusion exists, a pretty general impression prevailing that the State has exclusive jurisdiction. This seems to have arisen from two causes, first, because New York was one of the Thirteen Original Colonies and the "title" to the lands involved never was in the Federal Government; and, secondly, because the State has exercised jurisdiction, while the Federal Government, to a large extent, has not. A brief examination of the fundamental principles involved should remove any doubt on this point.

A common cause united the colonists in a supreme effort for independence, and the successful termination of the Revolution, together with the attendant treaty of peace, vested full powers of jurisdiction, sovereignty, and government in the thirteen original Colonies. Dissension immediately arose to such an extent that

13 independent nations seemed imminent rather than 1. The interlacing web represented by the Articles of Confederation were not sufficiently strong to weave the dissenting colonies into a satisfactory whole. The independent colonies had too much power and the central government too little. This is a matter of history, well established. By the adoption of the Federal Constitution the colonies ceded to the General Government certain well-defined powers, functions, and duties, among which we find the regulation of commerce with foreign nations, among the several States, and with the Indian tribes. (Constitution, Art. I, sec. 8.)

After the adoption of the Federal Constitution in 1787 several of the colonies ceded to the Federal Government certain parts of the territory covered by their respective charters from the British Crown. This territory formed the first land the actual title to which was recognized as being in the Federal Government. The area was greatly increased from time to time, as by the Louisiana purchase in 1803, the Floridas in 1819, the Gadsden purchase in 1853, the Alaska purchase in 1867, and others. This vast territory comprises what has since been known as "the public-land States," the title to which was recognized as being in the United States.

New York not having ceded to the Federal Government the lands within her present borders, the actual title is not in the Federal Government, and as to land not otherwise disposed of by the State the title still remains there. Were it not for the fact that we are here dealing with "an Indian problem" the Federal Government would have practically nothing to do with the so-called "reservations" in that State. Having joined with her sister States, however, in the adoption of the Constitution, New York is bound to recognize the powers formally ceded to the Nation. One of these is the regulation of commerce with Indian tribes, which surely is broad enough to cover traffic in lands occupied or claimed by them. Again, the admission of power in Indian tribes to barter, without the consent of the Federal Government, such title as they may have to any lands within the geographical limits of the United States, is repugnant to the fundamental principles of sovereignty so essential to the preservation of a nation. This is true, even though the actual title is not in the Federal Government. (*Johnson v. McIntosh*, 8 Wheat. 543; *Wooster v. Georgia*, 6 Pet. 515; *Cherokee Nation v. Georgia*, 5 Pet. 1.) Congress at an early date fully recognized the necessity for this. (Act March 30, 1802; 2 Stats. 143, sec. 12.) Could we afford to admit the right of an Indian tribe to sell their land within our borders to a foreign country?

By acts of Congress and judicial construction the power of the Federal Government over questions dealing with Indians has grown infinitely stronger. Apparently this has been a product of necessity rather than any express delegation of authority to be found in the Federal Constitution. From time to time New York has enacted sundry laws pertaining to the Indians within her borders, has provided schools for their youth, appointed attorneys to protect their interests, and has delegated jurisdiction in some instances to her courts to entertain their complaints. No case has been found denying the right of the State so to do, or that the laws so enacted are unconstitutional. On the other hand, numerous cases could be cited, if necessary, upholding the validity of such laws, where they do not conflict with the Federal Constitution, treaties with Indian tribes, or congressional enactments. (*New York v. Dibble*, 21 How. 366.) In brief, the principle involved may be broadly stated, that all State laws beneficial to Indians will be upheld, while those of a detrimental nature will be scrutinized with greater care.

In internal matters of this kind, wherever the Nation remains passive, then the State of necessity must become active. In truth, the Indians in New York occupy a somewhat peculiar status, in that they may be said to be wards of both the Nation and the State. Jurisdiction seems concurrent rather than exclusive, and in passing it may be said that the State has always been generous in dealing with these people. Judging from concrete results, the Federal Government has manifested but slight interest in the affairs of these Indians. Its greatest shortcoming has been by omission rather than by commission. The New York Indian problem should have been history long since. One hundred and twenty-seven years have passed since the adoption of the Federal Constitution, and we find these people to a large extent in the same position they occupied in the early days, at least in so far as their land tenures are concerned. Apparently the State has waited for the Nation and the Nation for the State. Has it never occurred to either to cooperate?

Originally the Federal Government dealt with the Indian tribes as quasi, or de facto nations, by treaty. Later Congress deemed it incongruous to deal with these people by such formal means as treaties, which implied equality, and directed that thereafter their affairs would be regulated by legislation only. (Act March 3, 1871, 16 Stats. 566.) The power of Congress so to do has been fully recognized even to the extent of abrogating by legislation the provisions of a prior treaty with an Indian tribe. (*United States v. Kagama*, 118 U. S. 375; *Lone Wolf v. Hitchcock*, 187 U. S. 553.) February 19, 1875 (18 Stats. 330), Congress passed an act to regulate leases by the Seneca Indians in New York. September 30, 1890 (26 Stats. 558), the prior act was amended in certain respects. The control of Congress over the subject matter was most strongly upheld in *Ryan v. Knorr* (19 Hun. 540), and *Shongo v. Miller* (45 A. D. 339). Need more be added to show jurisdiction in the Federal Government over the Indian tribes in New York? The one case of *Fellows v. Blacksmith* (19 Howard, 366) would be amply sufficient to prove this.

Congress having assured the Six Nations peaceful possession of their reservations (7 Stats. 44), and the Supreme Court having denied the State the right to tax their land (*The New York Indians*, 5 Wall. 761), the hands of the State are effectually tied in so far as working out a feasible solution of the problem is concerned. We have just seen that prior treaties may be superseded by subsequent legislation, but this power rests solely with Congress. Certainly it does not exist in the State. Just when, in what manner, and to what extent this power is to be exercised, therefore, rests in the sound discretion of Congress. Presumably the power will be exercised only after full considerations of humanity and public policy.

It has heretofore been shown that the actual title—the fee—in the St. Regis and Onondaga Reservations is in the State, that of the Tonawanda Reservation is in the comptroller of the State, and as to the Shinnecock and 4,329 acres of the Tuscarora Reservation it is in the respective tribes. Aside from the locus of the actual title, however, we have also found that the Indians' right of possession is an indefeasible one which can not be disturbed without the sanction of the Federal Government. (*Fellows v. Blacksmith* and *The New York Indians*, supra.) As to the locus of the fee of the Allegany, Cattaraugus, and 1,920 acres of the Tuscarora Reservations, we are confronted with a more difficult problem, these lands being subject to the "claim" of the Ogden Land Co., so-called—a claim of such a peculiar nature that a short recourse to colonial history is again necessary.

By charters in 1628–29 James I, King of England, granted certain land in the new continent to the Plymouth Colony. March 12, 1664, Charles II likewise granted certain land to the Duke of York. Owing to the deficient geographical knowledge of the then new country, the descriptions in these grants were more or less vague, and in many cases overlapped. Massachusetts succeeded to the title of the Plymouth Colony and shortly after the close of the revolution a dispute arose between that State and New York over the ownership of certain territory aggregating upward of 6,000,000 acres located in the western part of the latter State. The controversy was first submitted to the Continental Congress and a court was appointed to hear and determine the cause. The matter was finally adjusted, however, without resort to the court, a convention for this purpose having been held at Hartford, Conn., December, 1786, New York being represented by 6 commissioners and Massachusetts 10. A compact or agreement was drawn and duly executed December 16, 1786. By this compact New York retained the right of government, sovereignty, and jurisdiction over the disputed territory, but ceded to Massachusetts the right of preemption of the soil from the native Indians, coupled with the power to sell or assign such right.

Massachusetts proceeded promptly to dispose of its title and in April, 1788, Oliver Phelps and Nathaniel Gorman negotiated with that State for the purchase of the entire area for \$1,000,000 payable within three years in public paper of the State, a kind of scrip which was then greatly depreciated. Phelps and Gorman failed to comply in full with their agreement and subsequently Massachusetts brought suit to recover title. A compromise agreement was effected, however, under which Phelps and Gorman obtained a clear title to about 1,900,000 acres of the original area, the remainder being again relinquished to the State. March 8, 1791, Massachusetts conveyed to Robert Morris for \$225,000 the land which Phelps and Gorman had failed to acquire. Morris retained 500,000 acres of this land, which thereafter became known as "The Morris Reserve," and by four separate deeds in 1792–93, conveyed the remainder,

aggregating 3,600,000 acres, to a company of Amsterdam capitalists, among whom Wilhelm Willnick was the largest owner. These conveyances from Morris were coupled with an agreement on his part to extinguish the Indian title, which he promptly endeavored to do and which finally resulted in the agreement or treaty of Big Tree, September 15, 1797 (7 Stats. 601).

The Amsterdam capitalists subsequently became known as the Holland Land Co., and in 1810 the company conveyed to David A. Ogden certain described lands, embracing an area within which will be found the present Allegany, Cattaraugus, and Tuscarora Reservations. Ogden later associated other capitalists with him, and the combination became known as the Ogden Land Co., title to all lands acquired being taken in the name of certain members, in trust for the company, which, however, was not incorporated. Later a trust deed was executed under which the holdings of the company were divided into 20 shares of no specified value. A dispute having arisen among the shareholders, suit was instituted, in which a part of the joint owners were plaintiffs, the remainder being defendants. December 10, 1883, a decree was entered in the Supreme Court of Queens County, N. Y., designating Charles E. Appleby, of New York, a trustee, and William D. Waddington as cotrustee of the concern. Waddington died prior to 1888, leaving Charles E. Appleby sole surviving trustee of the company, who served until the latter part of 1913, when he also died. Who now represents the company in an official or legal capacity is not known, but in 1894 the owners of these 20 shares were reported to be:

	Shares
Estate of Joshua Waddington-----	4
Estate of Peter S. Schermerhorn-----	1
Estate of Thomas Ludlow Ogden-----	2
Estate of Louisa Troup-----	1
Estate of Abraham Ogden-----	1
Estate of Robert L. Tillotson-----	1
Estate of Duncan P. Campbell-----	1
Estate of Charlotte Brinckerhoff-----	1
Estate of James S. Wadsworth-----	1½
Estate of Ogden Murray-----	0½
Estate of Benjamin W. Rogers-----	2
Estate of Robert Bayard-----	1
Charles E. Appleby-----	1
Estate of Shaw and Wilson, now held by Bank of England-----	2
<hr/>	
Total-----	20

The nature and extent of the claim of the Ogden Land Co. still remains to be considered, however. This claim has received various designations, having grown, in the estimation of the company, from an original right of preemption to that of an absolute fee. Many theories have been advanced as to its exact nature, and the decisions of the State courts before whom this matter has been brought are not conducive to a clear understanding of the case. Much fruitless labor seems to have been expended in an effort to determine the locus of the fee, presumably due to the old common-law fiction that necessarily the fee must be in some one. That this is merely a fiction, however, is apparent from a moment's consideration. In whom is the fee to an uninhabited and undiscovered island in the Pacific Ocean? On discovery does the fee arise and hail the discoverer as a deliverer?

Ogden v. Lee (6 Hill 546) would indicate that the fee to these lands is in the Seneca Nation, subject to the preemption right ceded to Massachusetts by the State of New York. Fellows v. Lee (5 Den. 628) affirmed the decision of the lower court on the ground that the Indian title to land is an absolute fee, and that the preemption right ceded to Massachusetts was simply the right to acquire by purchase whenever the Indians choose to sell. In Seneca Nation v. Christie (126 A. D. 322) and Seneca Nation v. Appleby (127 A. D. 770) the preemption right to the Ogden Land Co. seems to have matured into what has variously been styled a "fee subject to the Indian right of occupancy," "qualified fee," "naked fee," "ultimate fee," etc. But little satisfaction is obtained from examining these various decisions with a view of determining just where the fee in these lands lies. Neither does a process of elimination produce a more satisfactory result. Necessarily four parties are to be considered in the matter, the Indians, the Nation, the State, and the Ogden Land Co. The doctrine of discovery, as laid down in Johnson v. McIntosh (supra), does not

recognize an absolute fee in an Indian tribe, their right being that of possession only. We have heretofore seen that the absolute fee was never placed in the Federal Government; nor is it in the State of New York, the latter having ceded all right and title, except that of sovereignty and jurisdiction, to Massachusetts. Massachusetts parted with whatever title it acquired, and we find the present claimants to be the Ogden Land Co. It is well, therefore, to examine with greater care the compact between Massachusetts and New York. The second and tenth articles read:

"Secondly. The State of New York doth hereby cede, grant, release, and confirm to the said Commonwealth of Massachusetts, and to the use of the Commonwealth, their grantees, and the heirs and assigns of such grantees forever, the right of preemption of the soil from the native Indians, and all their estate, right, title, and property (the right and title of government, sovereignty, and jurisdiction excepted) which the State of New York hath of, in, or to (description of land involved follows).

"Tenthly. The Commonwealth of Massachusetts may grant the right of preemption of the whole or any part of the said lands and territories to any person or persons who by virtue of such grant shall have good right to extinguish by purchase the claims of the native Indians: *Providing, however*, That no purchase from the native Indians by any such grantee or grantees shall be valid unless the same shall be made in the presence of and approved by a superintendent to be appointed for such purpose by the Commonwealth of Massachusetts, and having no interest in such purchase, and unless such purchase shall be confirmed by the Commonwealth of Massachusetts."

In construing the foregoing in *Ogden v. Lee* (supra), the court said:

"In the adjustment of the conflicting claims of the States of Massachusetts and New York to the tract of country which includes the Cattaraugus Reservation, Massachusetts ceded all her right to 'the government, sovereignty, and jurisdiction of the disputed territory,' and New York ceded 'the right of preemption of the soil from the native Indians.' The words which follow—'and all other the estate, right, title, and property which the State of New York hath'—were not intended to enlarge the grant into an unqualified fee. It is impossible to suppose the parties meant to disregard and set aside the Indian title, which they had but the moment before fully recognized by contracting for 'the right of preemption of the soil from the native Indians.' This point is rendered still more clear by a subsequent clause in the deed of cession. By the tenth article the Commonwealth of Massachusetts was authorized to grant 'the right of preemption,' and nothing more; and her grantees were only to acquire 'good right to extinguish by purchase the claim of the native Indians.' * * * Their right (the Indians') is as perfect now as it was when the first European landed on this continent, with the single exception that they can not sell without the consent of the Government. The right of occupancy to them and their heirs forever remains wholly unimpaired. They are not tenants of the State, nor of its grantees. They hold under their own original title. The plaintiffs have acquired nothing but the right to purchase whenever the owners may choose to sell."

The doctrine laid down in the foregoing appears sound. In any event, by eliminating the State and Federal Governments, in neither of whom it seems the fee exists, and placing in juxtaposition the "title" of the Indians against that of the Ogden Land Co., we instantly recognize the stronger—the Indians. The courts of both the Nation and the State have repeatedly denied the right of the assignees of Massachusetts in any manner to interfere with the right of the Indians to the peaceful and continued possession of their soil. We dismiss, therefore, from further consideration any attempt to determine the locus of the fee, and admit, for all intents and purposes, that it lies dormant and will remain dormant until present conditions are changed. Some workable plan under which these conditions may be ameliorated is of far greater import either to the Nation, the State, or the Indians, than any fruitless pursuit of the locus of the fee.

The Indians deny that the Ogden Land Co. has any valid claim to their lands, but the convention between Massachusetts and New York involved upward of 6,000,000 acres and the validity of the original grant to Massachusetts, and the subsequent sale by that State has been too long recognized and upheld by a long line of court decisions to justify any attempt to repudiate the transaction at this late date. The title to millions and millions of dollars worth of property in the western part of New York is based primarily on the convention between the two States. It is not seen how the courts could repudiate it. In fact, it

appears to have been confirmed by the National Government. (*Seneca Nation v. Christie*, 162 U. S. 284-285.)

Various attempts have been made from time to time to adjust the claims of the Ogden Land Co., but without success. The act of August 15, 1894 (28 Stats. 301), directed the Secretary of the Interior to investigate the claim of the company, which investigation was had and report submitted to the Fifty-third Congress, third session. (Senate Ex. Doc. No. 52.) Later, by act of March 2, 1895 (28 Stats. 887), the department was authorized to negotiate with the Ogden Land Co. for the purchase of its claim, which investigation was also had and report submitted to Congress under date of February 20, 1897. (H. Doc. No. 309, 54th Cong.) Later bills were introduced looking to a settlement of the matter (H. R. 12270, 53d Cong., and H. R. 7262, 54th Cong.), both of which failed of enactment.

Matters thus stood until about 1905, when the Seneca Indians instituted suit against Charles K. Appleby, surviving trustee, for the purpose of testing the extent and validity of the Ogden Land Co.'s claim. This resulted in a decision by the Supreme Court of the State of New York virtually recognizing the ultimate fee as being in the Ogden Land Co., with right of possession in the Indians. As to the title of the Ogden Land Co., the decision of the court is not of great import; but one suggestion made by the court in its decision is of great interest at this time:

"The affirmance of the judgment (of the lower court) does not establish the proposition that if the plaintiff becomes disintegrated that the defendant's title will vest in possession at once. Allotment among the individual Indians by the plaintiff has been permitted for a considerable period by the National Government. Inheritance is allowed in accordance with the statutes of the State of New York, and conveyances amongst the Indians are also allowed. It may well be held that even though the nation in its tribal capacity should be dissolved, if the individual Indian holds his land by virtue of this recognized method of allotment, that the occupancy will continue to his most remote descendant."

In effect, this would intimate that the courts may find room to hold that allotment of these lands among the Indians will not result in a disintegration of the tribe or a vesting of the right of the Ogden Land Co., if any such right exists. In other words, the lands may be allotted to individual members of the tribe and still remain subject to the claim or right of the Ogden Land Co. This seems to be the basis on which recent proposed legislation by the National Government is founded (H. R. 18735, 63d Cong., 2d sess.). Whether that contention is sound remains yet to be seen. In either event, no matter in what form this question is adjusted, the prospect of its ultimately being thrown into the courts for decision is exceedingly strong. The representatives of the Ogden Land Co. when last approached placed what was regarded as a fictitious value on their claim. If any compulsory method of settlement is invoked, as by condemnation, it would necessitate the institution of proceedings, with the Government acting as party plaintiff. Doubtless if the lands are allotted subject to the right of the Ogden Land Co., representatives of that company would promptly institute suit to test the power of the Federal Government so to do or the validity of the allotment so made, basing their claim on the theory that the "ultimate fee" rests in them and the dissolution of the tribal organization by allotment vests full title in the company.

However, it is not seen how the power of the Federal Government to enforce a division of these lands among the tribal membership can be denied. If whatever title the tribe has to specified areas within these reservations is placed by authority of Congress in individual members, who would deny the power of Congress so to do? If such action is had and the Ogden Land Co. or its assignees institute proceedings to test the right of the individual Indians, necessarily the Government must stand behind the Indian to defend his title.

The Indians not being satisfied with the decision found in *The Seneca Indians v. Appleby* (127 A. D. 770), the case was appealed, and the appellate court of New York dismissed the proceedings on the ground that the Indians were without power to sue and that the lower court was without power to try and determine the cause (196 N. Y. 318). This virtually nullified the decision of the lower courts and leaves the matter still at large. After examining the numerous decisions by the State courts relating to this matter, it is with great satisfaction one reviews the last case before the appellate court of that State and finds therein the following:

"Nor is it at all a subject of regret that we find that the action can not be maintained. On the contrary, we think it eminently wise of the legislature not to have authorized a determination now of questions which may not arise until the remote future, and whose determination, when they arise, may be seriously affected by considerations we can not now foresee. * * * The respondent contends that the rights of the Indians will not survive the dissolution of the nation or tribal existence, while the learned judge of the appellate division is of opinion that the rights continue as long as the lands are actually occupied by Indians of the tribe, whether the tribe as an entity continues to exist or not. * * * The question had much better be left till the nation or tribe becomes disintegrated, when the courts of that day will doubtless be competent to deal with it, as well as with the whole question of what rights, if any, the defendant or his successors in interest have in the lands embraced in these reservations."

Did the framers of the compact between Massachusetts and New York ever dream of the future difficulties being stored up when they conceived the plan of divorcing the right of preemption from that of sovereignty?

The claim of the Ogden Land Co. has stood continuously as an effective stumblingblock to a ready solution of "The New York Indian problem." The company has not heretofore been disposed to place a reasonable value on its claim, and the payment of an exorbitant price should not be considered, in view of the doubtful nature of that claim. Within recent years many of the Indians have manifested a strong tendency to object to any disturbance of that claim. After the decision of the appellate court, holding that they were without capacity to sue, the tribe applied to the State legislature and by that body was granted the requisite authority. The matter was dropped at that point, however, as the Indians began to fear that any disturbance of the claim would result in a speedy allotment in severalty, a dissolution of their tribal organizations, and the assumption of full responsibilities of citizenship. In other words, the claim has acted as a blanket to protect them from these ultimate ends, which they do not appear to desire. As matters now stand they enjoy the full benefits accorded other residents of the State, such as adequate school facilities, excellent highways constructed within their reservations at the expense of the State, yet at the same time their property is exempt from taxation and the Indians are not bound by financial obligations arising under contracts. From a personal or selfish standpoint, therefore, why should they desire a change?

At its own expense the State maintains 33 schools exclusively for Indians and employs 37 teachers therein. If the State is denied the right to tax their lands, should it be expected to support, protect, and educate the Indians? Has the Nation been altogether fair to the State in this matter? Should not this be a burden upon the nation rather than the State? If the nation denies financial responsibility, should the State be denied the right to tax or to take such other steps as may be necessary to solve the problem?

By invitation, from time to time, the State legislative assembly has invited these people to divide their lands in severalty, and the courts of the State have respected, as fully as possible, the division so made. Beyond this the State could not go, as the Nation has guaranteed these people peaceful possession of their soil. The State has been without power to compel a division of their lands, as this power is peculiarly vested in the Nation.

March 21, 1888, the State legislative assembly appointed a committee of five to investigate the Indian problem in New York, and the report of that committee, with extensive exhibits, covering some 410 pages of printed matter, was presented to the assembly under date of January 31, 1889. Much valuable data can be gathered from that report, and the specific recommendations made by that committee are not without interest even at this time. They read:

1. That a compulsory attendance school law be enacted.
2. That the legislature request the General Government to take action to extinguish the claim of the Ogden Co. to the lands of the Senecas and that portion of the Tuscaroras covered by it.
3. That the lands of the several reservations be allotted in severalty among the several members of the tribe, with suitable restrictions as to alienation to whites, and protection from judgments and other debts; but such division not to go into effect as to lands affected by the Ogden Co.'s claim until that claim be removed. This allotment in severalty ought not to be limited to a division of the possession of the land, but should comprise a radical uprooting of the whole tribal system, giving to each individual absolute ownership of his share of the land in fee.

4. The repeal of all existing laws relating to the Indians of the State, excepting those prohibiting sale of liquors to them and intrusion upon their lands, the extension of the laws of the State over them, and their absorption into citizenship.

The State subsequently enacted and has with a reasonable measure of success enforced a compulsory attendance school law, but as to the other recommendations they stand to-day practically as when made 26 years ago. How much longer must the State await the pleasure of the Nation in offering a solution of the problem? That present conditions should be permitted to continue indefinitely on these reservations would be a shame upon the Nation and a disgrace to the State. In a majority of these tribes the infusion of white blood has been so great that out of an "Indian" population of over 5,000 in the State one will find scarcely a single full blood, less than 500 half bloods, and a great number with so much white blood that only the closest scrutiny of a keen observer will disclose any Indian characteristics. The remnants of the former tribes on Long Island have intermarried so largely with negroes that their present descendants are more nearly negro than Indian. All of these people deserve but scant sympathy, therefore, as "Indians," although any adjustment of their affairs should be based on sound principles of justice and humanity. A large percentage of them have reached a comparatively advanced stage of education and civilization along certain lines. Many of them are progressive, shrewd, keen, business men with large land holdings, fine homes, excellent barns, up-to-date farming implements, and in a number of cases even automobiles. On some of these reservations marriage to a large extent consists of but cohabitation and divorce but separation at pleasure. In the midst of thriving communities, in some cases adjacent to large cities, the continuance of such conditions is abhorrent to the finer sensibilities of civilized mankind. The cause should have been removed long since and no doubt would have been had the power existed in the State to force an effective solution of the problem.

Nothing in the foregoing should be construed as intending to imply that these reservations are hotbeds of iniquity or corruption. Among these people will be found many upright, honorable men and women, who are law-abiding, self-respecting inhabitants, but the lax enforcement of the law on these reservations allows the unruly element full license to do pretty much what they please. Being powerless to dissolve the tribal organizations and to compel a division of the lands among the Indians, the State could only abide in patience the time when either the Nation would remove the obstacles or the Indians voluntarily agree to a relinquishment of their title. Thus the tribes to a large extent have been left to themselves, both by the Nation and the State, in so far as police supervision and internal government is concerned. Doubtless the State has been influenced in its action by the doubtful question of jurisdiction and the superior power of the Federal Government over the subject matter.

One of the most serious difficulties, however, presented in connection with a solution of this matter lies in the fact that to all intents and purposes these reservations were "allotted" years ago. The Indians under their tribal government have divided the lands among themselves; valuable improvements have been erected, and transfers have been made by sale, purchase, gift, or otherwise, until the present claimants are confirmed in their respective holdings by recognition of the tribal officers, by the tribal membership at large, and even by the State courts, who have upheld such transactions. Shrewd members of the various tribes in many cases have acquired land holdings many times in excess of the number of acres to which they would be entitled under a present pro rata division. Naturally, to a man, such owners are opposed to any settlement which would not recognize and confirm their present possession, the title to which they could in many cases prove by inheritance or purchase for valuable considerations. Cases may be found, of course, where the acquisition would not bear the light of close investigation, but in the majority of cases it will be found that rightful inheritance or the payment of adequate consideration has been the basis of the "title" over and above the acreage to which the present owner would be entitled under a pro rata division.

Those members of the tribes who possess no land naturally are in favor of a division of the tribal property. If their right as a member of one of these tribes is worth anything in dollars and cents they want it, and the faction of the tribes favoring a division is composed largely of this class. A few, having in their possession only the approximate number of acres to which they would be entitled in case of a pro rata allotment, or who have a family with sufficient

members to absorb the entire area now occupied, would be very glad to receive ultimate title with power to convey, to outsiders, as on practically every reservation such power, coupled with their present title, would practically double the per acre value of their lands which, even at this date, is by no means inconsiderable.

The lands of the St. Regis Reservation are fertile farming lands and many of these Indians are expert dairymen. The Tuscarora Reservation lies within one of the most fertile parts of the State of New York and the lands there are very valuable both for agricultural and fruit-raising purposes. The Shinnecock Reservation on Long Island is not of an exceedingly high value for agricultural purposes, yet these lands are so beautifully situated on Shinnecock Bay—a small arm of the Atlantic Ocean—that to-day they have an actual value of approximately \$2,000 per acre for building-site purposes. Many wealthy people from New York City and elsewhere have built fine summer houses in Southampton, which is but 2 miles distant from this reserve and within which unimproved land is worth about \$5,000 per acre at this time. On the Onondaga, Tonawanda, Allegany, and Cattaraugus Reservations the valley lands are very fertile, and have been improved and cultivated for many years past. Any timber of commercial value on the hills within these reservations has been removed long since and these lands are now mainly valuable for grazing purposes. The average value of the lands within these reservations will closely approximate \$60 per acre.

Before any attempt is made to suggest an adjustment of present landholdings an accurate survey of each reservation should be made, the present owner of each acre ascertained, the manner in which title was acquired looked into, and the general conditions studied with a view of offering the most equitable plan, both to the present holders and the tribe at large. In brief, each reservation should be made the subject of a special study and such measures taken as would best fit conditions on that particular reservation. Any broadside legislation applying indiscriminately to all these reservations and designed to affect present landholdings, aside from meeting strenuous opposition, might produce disaster. At present these people are contented, fairly prosperous, and, in a few cases, wealthy to a limited extent. The greatest present need on these reservations is proper police supervision and the enforcement of the law. The peace officers of the State have been chary about enforcing State laws, moved in part by the doubtful question of jurisdiction and possibly more so by the uncertain outcome of any attempt to collect their usual fees.

Each reservation should be provided with an officer with full powers to see that the law is obeyed. The power now placed in the hands of the tribal organizations should be promptly curtailed, as, in the past, this power has too frequently been used for selfish purposes or in other cases has not been exercised to compel order and obedience to the laws. In the past the State has been burdened with practically all expense connected with whatever enforcement of the law has been compelled, all local educational facilities furnished, and yet its hands have been effectually tied in so far as taxation of the property of these people is concerned. The nation should either untie the knot by turning the entire matter over absolutely to the State or else assume full jurisdiction and effectually enforce it.

In view of the superior jurisdiction and power of the Federal Government over the subject matter, its broader experience in dealing with Indian problems, the urgent need for some remedial legislation and the inability of the State to offer or force a feasible solution, it is suggested that the matter be placed before Congress with recommendations that legislation to accomplish the following results be speedily enacted.

1. Promptly curtail the power and authority now lodged in the respective tribal organizations.
2. Place one or more representatives of the Federal Government on each reservation, with full powers to maintain order and enforce obedience to the laws, such officers to be subordinate to the special agent or other officer in charge of the New York Indians.
3. Declare the Indian reservations in the State of New York to be "Indian country" within the meaning of the Federal statutes prohibiting the introduction of intoxicants into such country.
4. Provide for an accurate survey of the lands within each reservation, so as to determine the present owner or claimant of each acre therein, the time when and manner in which such possession was acquired, and the equitable right of

such owner thereto, which should be coupled with an investigation as to present membership of the tribes owning lands and those who are without such means.

Possession of information suggested in the preceding paragraph should enable specific recommendations to be made with a view of suggesting an equitable adjustment of the New York Indian problem.

Appreciating fully the need in the Indian Office of a ready reference to at least some of the many court decisions, congressional documents, and miscellaneous papers relating to the New York Indians, an index of the character indicated has been prepared and attached hereto as an appendix.

Respectfully,

JOHN R. T. REEVES.

APPENDIX

THE NEW YORK INDIANS

TREATIES

- October 22, 1784 (7 Stats. 15), with the Six Nations.
- January 9, 1789 (7 Stats. 33). with the Six Nations.
- November 11, 1794 (7 Stats. 44), with the Six Nations.
- December 2, 1794 (7 Stats. 47), Oneidas, Tuscaroras, and Stockbridges.
- May 31, 1796 (7 Stats. 55), Seven Nations of Canada.
- March 29, 1797 (7 Stats. 61), Mohawks.
- September 15, 1797 (7 Stats. 601), Senecas and Robert Morris.
- June 30, 1802 (7 Stats. 70-72), Senecas.
- February 8, 1831 (7 Stats. 343), Menominee in Wisconsin, ceded land (for New York Indians).
- October 27, 1832 (7 Stats. 407-409), Menominee in Wisconsin, ceded land (for New York Indians).
- January 15, 1838 (7 Stats. 550), Six Nations.
- February 13, 1838 (7 Stats. 560), St. Regis.
- May 20, 1842 (7 Stats. 586), Senecas.
- June 27, 1846 (9 Stats. 35), Senecas.
- November 5, 1857 (11 Stats. 735), Tonowandas.
- November 5, 1857 (12 Stats. 991), Tonowandas.

ACTS

- February 19, 1875 (18 Stats. 330), leasing, surveys, etc., Senecas.
- September 30, 1890 (26 Stats. 558), leasing.
- February 20, 1893 (27 Stats. 470), leasing.
- June 10, 1896 (29 Stats. 340), leasing.
- June 6, 1897 (30 Stats. 89), leasing.
- February 28, 1901 (31 Stats. 819), leasing.
- March 3, 1901 (31 Stats. 1809), leasing.
- May 30, 1908 (35 Stats. 535), leasing.
- February 21, 1911 (36 Stats. 927), leasing.
- May 25, 1878 (20 Stats. 535), surveys, Cattaraugus.

Congressional documents relating to leases

Document	No.	Congress	Session	Volume	Page
House Report.....	2786	Fifty-first.....	First.....	21	17636
Senate Report.....	1680*	do.....	do.....	22	19130
Do.....	2293	Fifty-second.....	Second.....	30	26041
Do.....	23*	Fifty-fourth.....	do.....	39	36076
Do.....	76*	Fifty-fifth.....	First.....	40	37430
Do.....	145*	do.....	Second.....	44	40759
House Report.....	2655	Fifty-seventh.....	First.....	55	51408
Do.....	2020	Sixty-first.....	Third.....		
Do.....	366	Sixty-third.....	Second.....		

Those marked with an * contain valuable information. Some of the reports listed are duplicates of prior reports, but are given here for convenient reference. The volume and page references are to "Miscellaneous Indian Documents" on file in the Indian Office library.

STATE COURT DECISIONS RELATING TO LEASES

[Abbreviations : A. D., appellate division ; A. N. C., Abbott's new cases ; Hun., reports of the State supreme court]

- Ryan v. Knorr (19 Hun. 540).
- Baker v. Johns (38 Hun. 625).
- Sheehan v. Mayer (41 Hun. 609).
- Sheehan affirmed (129 A. D. 675).
- Shongo v. Miller (45 A. D. 339).
- Wait v. Jemison (15 A. N. C. 332).
- Buffalo, etc., Ry. Co. v. Lowry (75 Hun. 396).
- Buffalo affirmed (149 A. D. 576).
- Reservation Gas Co. et al. v. Snyder.¹

THE KANSAS AWARD

- Act January 28, 1893 (27 Stats. 426), authority Court of Claims to hear.
- Act February 9, 1900 (31 Stats. 27), appropriation to pay judgment.
- Act March 3, 1901 (31 Stats. 1077), disposition of proceeds.
- Act May 27, 1902 (32 Stats. 263), disposition of proceeds.
- Act April 21, 1904 (33 Stats. 208), disposition of proceeds.
- Act March 3, 1909 (35 Stats. 800), disposition of proceeds.

Congressional documents relating to Kansas award

Document	No.	Congress	Session	Volume	Page
Executive document.....	Y	Fortieth.....	Third.....		
House.....	751	Forty-sixth.....	Second.....	6	4142-4
Do.....	449	Forty-seventh.....	First.....	8	6260-9
Senate miscellaneous.....	38	do.....	Second.....	8	6887
House.....	2001	do.....	do.....	8	7029
Do.....	673	Forty-eighth.....	First.....	11	8079
Do.....	15	Fiftieth.....	do.....	18	14375
Senate miscellaneous.....	76	do.....	do.....	18	14926
Senate.....	508	do.....	do.....	19	15449
House Executive.....	298	do.....	do.....	19	15374
House.....	26	Fifty-first.....	do.....	20	16977
Senate.....	1393	do.....	do.....	22	19098
Senate miscellaneous.....	46	Fifty-second.....	do.....	28	23965
Senate.....	910	do.....	do.....	29	24740
Do.....	761	Forty-eighth.....	do.....	41	38636
House.....	1693	Fifty-sixth.....	do.....	50	47102
Senate.....	322	do.....	do.....	51	48091
Do.....	91	do.....	do.....	52	48563
Do.....	285	Fifty-eighth.....	Second.....	62	58588

Some of the reports are duplicates. Volume and page references are to miscellaneous Indian documents, Indian Office library.

COURT DECISIONS RELATING TO THE KANSAS AWARD

- New York Indians v. United States (30 Ct. Claims Repts. 413).
- New York Indians v. United States (33 Ct. Claims Repts. 510).
- New York Indians v. United States (40 Ct. Claims Repts. 448).
- New York Indians v. United States (41 Ct. Claims Repts. 462).
- New York Indians v. United States (170 U. S. 1).
- United States v. New York Indians (173 U. S. 464).

THE OGDEN LAND CO.

- Act August 15, 1894 (28 Stats. 301).
- Act March 2, 1895 (28 Stats. 887).

¹ Decided Dec. 7, 1914. Net yet reported. Held that oil deposit is tribal rather than individual property.

Congressional documents relating to

Document	No.	Congress	Session	Volume	Page
House.....	478	Forty-third.....	First.....		
Senate executive.....	52	Fifty-third.....	Third.....	34	31161
Do.....	154	Fifty-fourth.....	Second.....	39	36245
House.....	2591	Fifty-seventh.....		55	51405
Hearings on H. R. 7262.....		Fifty-eighth.....		58	54115

Documents other than congressional

	Volume	Page
By the Society of Friends.....	3	2906
Do.....	37	34375
By the Board of Indian Commissioners.....	20	16923
By Hon. Daniel Sherman.....	31	27139
By a special committee (State Assembly, No. 40).....	(1906) 75	65969
By a special committee (State Assembly, No. 51).....	(1889) 41	37863

All of the foregoing do not relate exclusively to the Ogden Land Co. claim, but cover conditions existing generally at the time when prepared. Volume and page references are to Miscellaneous Indian Documents, Indian Office Library.

COURT DECISIONS RELATING TO THE OGDEN LAND CO.'S CLAIM

- Ogden *v.* Lee (6 Hill. 546).
- Fellows *v.* Lee (5 Den. 628).
- Wadsworth *v.* Buff. Hyd. Asso. (15 Barb. 83).
- People *v.* Pierre (18 Misc. 83).
- Blacksmith *v.* Fellows (7 N. Y. 401).
- Fellows *v.* Blacksmith (19 How. U. S. 366).
- New York *v.* Dibble (21 How. U. S. 366).
- The New York Indians (5 Wal. U. S. 761).
- Seneca Nation *v.* Christie (49 Hun. 524).
- Seneca Nation *v.* Christie (126 N. Y. 122).
- Seneca Nation *v.* Christie (126 N. Y. 122).
- Seneca Nation *v.* Christie (162 U. S. 283).
- Seneca Nation *v.* Appleby (127 A. D. 770).
- Seneca Nation *v.* Appleby (196 N. Y. 318).
- Jemison *v.* Bell Telephone Co. (186 N. Y. 493)
- New York Indians *v.* U. S. (30 Ct. Cls. 413).

Unless otherwise specified references are to New York State court reports. Many of the cases hereinafter cited under the Seneca and Tonowanda Tribes also touch on the origin of the Ogden Land Co.'s claim.

UNITED STATES SUPREME COURT CASES

Leading cases of the United States Supreme Court touching on the Indian question generally, especially titles and the power of the Federal Government over their affairs, but not relating specifically to the Indians in New York:

- Johnson *v.* McIntosh (8 Wheat. 543).
 - Cherokee Nation *v.* Georgia (5 Pet. 1).
 - Wooster *v.* Georgia (6 Pet. 515).
 - Mitchell *v.* United States (9 Pet. 711).
 - The Kansas Indians (5 Wal. 737).
 - Cherokee Tobacco Case (11 Wal. 616).
 - United States *v.* Cook (19 Wal. 591).
 - United States *v.* Kagama (118 U. S. 375).
 - Choctaw Nation *v.* United States (119 U. S. 1).
 - Lone Wolf *v.* Hitchcock (187 U. S. 553).
- Supreme Court decisions relating exclusively to the New York Indians:

Fellows *v.* Blacksmith (19 How. 366).
 New York *v.* Dibble (21 How. 366).
 The New York Indians (5 Wal. 761).
 Seneca Nation *v.* Christie (162 U. S. 283).
 New York Indians *v.* United States (170 U. S. 1).
 United States *v.* New York Indians (173 U. S. 464).
 See also Benson *v.* United States (44 Fed. 178).

NEW YORK STATE COURT DECISIONS RELATING TO, ARRANGED BY TRIBES

Tonawanda

Jimeson *v.* Bell Telephone Co. (109 A. D. 911).
 Jimeson *v.* Bell Telephone Co., affirmed (186 N. Y. 493).
 Hatch *v.* Luckman (64 Misc. 508).*
 Hatch *v.* Luckman (155 A. D. 765).*
 Blacksmith *v.* Fellows (7 N. Y. 3 Sel. 401).
 Fellow *v.* Blacksmith (19 How. 366).
 New York *v.* Dibble (21 How. 366).
 People *v.* Soper (7 N. Y. 428)
 Blacksmith *v.* Tracy (1 Denio, 617).

Tuscarora

In re Jack (52 Misc. 424).
 Peters *v.* Tallchief (52 Misc. 617).
 Peters *v.* Tallchief, reversed (121 A. D. 309).*
 Cusick *v.* Daly (78 Misc. 657).
 Cusick *v.* Daly, reversed (212 N. Y. 183).*
 Bates *v.* Printup (31 Misc. 17).
 In re Printup (121 A. D. 322).

Cayuga

Cayuga Nation *v.* Land Commissioners (74 Misc. 154).*
 Cayuga Nation *v.* Land Commissioners, reversed (152 A. D. 543).*
 Cayuga Nation *v.* Land Commissioners, reversal affirmed (207 N. Y. 42).*
 Cayuga Nation *v.* State (99 N. Y. 235).

Montauk

Pharoh *v.* Benson (69 Misc. 241).*
 Montauk Tribe *v.* Long Island R. R. Co. (28 A. D. 470).
 Johnson *v.* Long Island R. R. Co. (162 N. Y. 462).

St. Regis

Terrance *v.* Crowley (62 Misc. 138).*
 St. Regis Indians *v.* Drum (19 John. 127).

Seneca

Seneca Nation *v.* Jimeson (62 Misc. 91).
 Silverheels *v.* Maybee (82 Misc. 48).
 Seneca Nation *v.* Christie (49 Hun. 524).*
 Seneca Nation *v.* Christie (126 N. Y. 122).*
 Seneca Nation *v.* Christie (162 U. S. 284).
 Seneca Nation *v.* Appleby (127 A. D. 770).*
 Seneca Nation *v.* Appleby (196 N. Y. 318).
 Dole *v.* Irish (2 Barb. 639).
 Jemison *v.* Pierce (78 A. D. 9).
 Shongo *v.* Miller et al. (45 A. D. 339).
 Ryan *v.* Knorr (19 Hun. 540).
 Seneca Nation *v.* Lehly (55 Hun. 83).
 Jones *v.* Gordon et al. (51 Misc. 305).

Jameson *v.* Lehly (51 Misc. 352).
 Jemison *v.* Kennedy (55 Hun. 47).
 Buffalo, etc., Ry. Co. *v.* Lowry (75 Hun. 396).
 Crouse *v.* N. Y. & O. R. R. Co. (49 Hun. 576).
 Singer Sewing Machine Co. *v.* Hill (60 Hun. 347).
 Seneca Nation *v.* Hugaboom (132 N. Y. 493).
 People *v.* Pierce (18 Misc. 83).
 Wait *v.* Jemison (15 Abb. N. C., 382).
 Wadsworth *v.* Buff. Hyd. Asso. (15 Barb. 83).
 Strong and Gordon *v.* Waterman (11 Paige 607).
 Fellow *v.* Denniston (23 N. Y. 420).
 The New York Indians (5 Wal. 761).

Onondaga

George *v.* Pierce (85 Misc. 105).
 George *v.* Pierce, reported in (148 N. Y. Sup. 230).
 Onondaga Nation *v.* Thacher (29 Misc. 428).
 Onondaga Nation *v.* Thacher, affirmed (53 A. D. 561).
 Hashtings *v.* Ellis (3 Barb. 492).
 Hastings *v.* Farmer (4 N. Y. 293).

Oneida

Jackson *v.* Wood (7 John. 290).
 Jackson *v.* Sharp (14 John. 472).
 Jackson *v.* Goodell (20 John. 188).
 Goodell *v.* Jackson (20 John. 693).
 Boylan *v.* George (133 A. D. 514).
 Dana *v.* Dana (14 John. 181).

Cases marked * will be found to contain valuable information.

Many of the cases cited relate to such matters as tribal and individual property rights, tribal government and customs, inheritance, crimes, police power of the State, right of eminent domain, jurisdiction, State and Federal, etc. A rearrangement of the cases according to their respective subject matters would prove convenient. The number of cases reported, however, is not so great as to render it burdensome to find a few decisions relating to any of the points mentioned, and one case will carry cross-references to other decisions relating to the same subject matter.

JOHN R. REEVES.

The history of the Iroquois submitted, in her statement, by Mrs. Kellogg is here printed in full, as follows:

HISTORY OF THE IROQUOIS

The Six Nations or the League of the Iroquois came into a national nucleus by the confederation of Five Nations known as the Hodinonshonni, "The People of the Long House." According to their way of computing time that happened about 600 years ago. Originally the Five Nations were the Mohawks, the Oneidas, the Onondagas, the Cayugas, the Senecas, and lastly in 1712 the Tuscararas came into the confederacy, making the Six Nations. These Tuscararas were admitted with the status of a territory which they still occupy. Behind the idea of a territory is a well-defined policy of enleaguening all the tribes of North America.

Some time before the European came, the Iroquois confederacy were engaged in winning over into the Gayanelengo, the Government of Great Peace, all the western tribes. They sent out scouts to every quarter of the land and returned with information of each group. Next, they sent out peaceful embassies soliciting every tribe to accept the Government of Great Peace and alliance with them. Their history records the acceptance of every western tribe except the Crows. They had therefore actually brought about the beginnings of nationalization on this continent and an organization known as the National Confederacy which was functioning in 1784. They brought together a conference of all these tribes' delegations in that year with a view to securing one treaty among all

Indians, with the new United States Government. They came to the Continental Congress and pleaded for it. They were refused. The western delegations became discouraged, and the Six Nations were obliged to go back alone to the Continental Congress, and asked for a treaty with the United States Government for themselves. Again, despite President Washington's recommendations, objections were raised against them and the Six Nations made this ultimatum to the United States: "You have just been through one war. Prepare now to fight the Indians of the land."

The part George Washington took in the making of the Fort Stanwix treaty of 1784 between the Six Nations and the United States Government is a notable one. All regularity in treaty making between nations was observed. The pre-war offers he had made to the Six Nations were faithfully kept and constitutes to-day a monument of liberal justice characteristic of the great Father of His Country. Had his policy with the Six Nations been allowed to become the policy with all the Indians in this Government's Indian relations there need have been no such spectacle of a debauched and degraded people whose only sin was that they possessed a separate and distinct ethnic culture peculiar to the European, and the richest continent on the globe.

This historic event takes us back to the young manhood of George Washington, and to the days when the Six Nations Iroquois were unbroken in their dominion. When the European came, their possessions extended from Canada and the Great Lakes to the borders of Virginia and in strips to the borders of Florida. East from a part of New England States to the Mississippi, this territory the Iroquois had won by conquest from other Indians. This they originally held and parts of it they sold to Great Britain and Holland. They at that time collected tribute in kind from tribes who sat under their protection. The Oneida Nations domain, in Washington's youth, extended to the Virginia line. Washington had met the Oneida scouts and warriors and was able to admire them.

When in the French and Indian War, Governor Dinwiddie, of Virginia, sent the youthful Washington to notify the French to evacuate Fort Pitt, he sought his Oneida friends for guides. A lasting and intimate friendship between them was the result and in all his surveys. Chief Half Moon, of the Oneidas, was his guide.

As the Revolutionary War broke, Washington knowing the character and the position of the Six Nations, went personally to them and solicited their alliance with the Colonial forces.

Already, however, the Iroquois had declared a policy of neutrality. Said they, "This is a war between father and son. We have been friends to both. We can not take sides."

The British earlier through Sir William Johnson had a strong hold on the Mohawks. Through the brilliant Joseph Brant, who survived Johnson, the British also solicited the Six Nations, and Brant did persuade and lead to the British many Mohawks. The Iroquois now began to suffer the inroads of war. Over their territory the armies of both forces passed. Finally General Butler nearly wiped out an Oneida village. The Oneidas no longer pleaded with the Six Nations to ally themselves with the Colonial forces. They hustled together all their fighting men, all the fighting men of the Tuscaroras, and those of their adopted peoples, the Stockbridges and Brothertowns, whose proper name is the Mohicans, and threw a new and timely force behind General Washington. Fresh forces, fresh supplies from the "people of the stone" your historians admit decided the fate of the 13 Colonies, just as the alliance of the Six Nations with the British forces decided the fate of the French and Indian War. The price the Iroquois had paid no one has yet come to immortalize, but perhaps it needs no argument to prove that war saps the flower of every people. The leadership of these people went to pay for American liberty. Nearly 150 years after, their descendants are still looking for effective protection from the Nation they helped to make.

I can not here dwell at length upon all phases of the Iroquois civilization. I must, however, make mention of the constitution of the confederacy. Their tradition is full of Deganawida, a sacred character born under miraculous circumstances who was their lawgiver. The laws he gave them were written in wampum strands which are preserved to the present day. There were 88 articles of this constitution.

"The supreme power of the confederacy was vested in a congress of 50 chiefs. In them resided the executive, legislative, and judicial powers." These offices each bore a name which has never been changed. They were

"handed down as Norfolk succeeds Norfolk." When a chief dies some one else is installed in his place and crowned with the antler horns. These names are never appropriated by anybody else. For example the head chief of the Mohawks is Tegarihogen, and on one else can ever assume the name, except his successor. And so it is among all the clans.

Assisting the 50 federal chiefs are 50 minor ones to whom is delegated the carrying out of their decrees as well as being close advisors on all local matters. There were still two other sets of chiefs who may be entirely outside of the royal clans. These were the pine-tree chiefs, who were installed by general election; and the war chiefs, the latter being a limited number in each nation. These last institutions denoted sheer ability and any plebian could rise to this position at any time.

The position of woman in the confederacy is a very lofty one. The mothers of the race had the right of suffrage and regency. They nominated the chiefs and were represented in the deliberations of the councils, and the title of the Iroquois domain was vested in them. Historians who knew the character of the Iroquois agree that these mothers of the clan deserved all they got.

Inasmuch as the character of a nation is largely determined by the mothers of the race, it is not out of place in mentioning the achievements of the Iroquois to cite tributes to their national character here, tributes made by the earliest of French historians.

Volney called them the "Romans of the West," and a successor of his said, "Had they enjoyed the advantages possessed by the Greeks and Romans there is no reason to believe that they would have been at all inferior to these celebrated nations. Their minds appear to have been equal to any effort within the reach of man. Their conquests, if we consider their numbers and circumstances, were little inferior to those of Rome itself. In their harmony, the unity of their operations, the energy of their character, the vastness, vigor, and success of their enterprises and the strength and sublimity of their eloquence they may be fairly compared with the Greeks."

Thatcher said, in speaking of the fact that the Iroquois encouraged other Indians to incorporate with them, that they exercised "a Roman principle in theory and in practice" and "from whatever point we scrutinize the general features of their confederacy we are induced to regard it as a beautiful as well as remarkable structure and to hold it up as the triumph of Indian legislation."

Another historian said, "The confederacy in one leading feature was not unlike our Federal Union. The Five Nations were so many States reserving to themselves some well-defined powers, but yielding others to the general good." When the authors of the Constitution of the United States sat at Albany, Franklin called the Iroquois chiefs before him and asked them to explain their constitution. They produced the wampum strand upon which were the five figures with hands joined. Their spokesman explained in part, "You see here the figures of five men holding hands. This means that each nation of the five is free unto itself like a man, but when the eagle which sits on top of our great tree skalenhegigo gives the cry, then are we one heart, one head, and one man." In a document which still remains, Franklin admits that the idea of a separate States government within the Federal was an inspiration received from the constitution of the Iroquois.

Were we to give the Iroquois government a designation which would most nearly fit it, we should call it a limited oligarchy exercising democratic principles.

Among its powers were the right to make treaties, to appoint embassies, to levy and collect tribute, which they collected in kind from the peoples who sat under their protection. Notable in its penal code was the punishment of treason by ostracism.

Back of it all was a philosophy of life whose character is hinted at in what Horatio Hale has said, "The sentiment of universal brotherhood which directed their polity has never been so fully developed in any branch of the Aryan race, unless it may be found in the religious quietism of Budha and his followers."

It is a very difficult task, gentlemen of the commission in a brief space of time to properly show the size of the Six Nations problems, and why an investigation of their affairs by this honorable commission is urgent.

Here are a group of Indians, about 16,000 in all, occupying some 78,000 acres in reservations in New York or colonized in small groups in several Western States and in Canada.

Their legal status is peculiar to Indian relations. They have a treaty with the United States Government which gives them the status of an independent protectorate of the United States, under his treaty of 1784, confirmed and added to in the treaty of 1789. They are a protected autonomy, with the title of the original territory vested in them, and United States protection absolutely guaranteed to them. In specific language the United States ceded all right and title to them, to territory they reserved to themselves out of their Iroquois domain, in return for their ceding all right and title in the Ohio Valley to the United States Government.

This peculiarity of status came from remarkable circumstances. In the first place, the Six Nations Iroquois had a superior social order, a civilization of their own when the white man came.

According to our own history, corroborated by Spanish, French, English, and Dutch historians, their domain extended from Canada as far as Montreal and the Great Lakes to the Carolinas, Florida, and west to the Mississippi and Tennessee, with an irregular eastern boundary running into the southern part of the New England States. They had acquired this territory by conquest from other tribes, and they had many tribes under their protection, from whom they collected tribute in kind.

Prior to the Revolution, they met and treated with foreign nations as do other nations of the world. They sold the most of this territory to the Dutch and the English and Pennsylvania, giving the warranty deed in each instances. They reserved for themselves and their posterity in their last transaction with the English in 1768, a tract containing some 18,000,000 acres in the States of New York and Pennsylvania, plus the Ohio Valley, set aside by the English survey known as the Sir William Johnson line of property in their last treaty with Great Britain prior to the Revolution. The Revolutionary War came on, and with the experience of the English people in the French and Indian War, where one of their historians truthfully said of the Six Nations part of it, "Our victories are purchased at the expense of their blood," both Great Britain and the United Colonies solicited for their assistance.

Both were able to get some, though the majority of the Six Nations remained neutral. Early in the war, the English who, through the late Sir William Johnson, had a great hold on Gen. Joseph Brant, were able to get the alliance of those who would follow Brant.

Upon this break in their ranks, the Oneidas pleaded with the Six Nations that they could end the war by allying themselves with General Washington. They were unable to persuade the Six Nations, and they broke neutrality, leading away with them the Tuscaroras, the Stockbridges, and Brothertons, who were their adopted peoples.

The Revolutionary War was won with the help of two nations of the six, and with the neutrality of the rest of the Six Nations. Had the Six Nations not been neutral but had gone over to Great Britain, the Colonies would not have won. Had the Six Nations allied themselves with the Colonies earlier, the war would have ended then with victory for the United States.

The relations between the Six Nations and the people of the United States follows:

Some years after the treaty of 1784 was concluded, the State of New York, despite the constitutional provision against any State making separate treaties with other nations, made separate treaties with the individual nations of the six fraudulently and criminally. Over the protests of President Washington to Governor Clinton these land transactions went on. Rum was used to get the signatures of individuals who were in many instances nearly white men and who had no authority or ability to sell. The United States Government, however, has never O. K'd one of these transactions.

Out of these millions of acres the Six Nations have left these 78,000 acres in the State of New York in small reservations, some of which are being threatened with eviction every day under the instigation of exploiters who either want parks, town lots, sand, or water-power sites.

Right now certain citizens of the town of Syracuse have announced in the press that they were introducing a bill at Albany to get a dam site in the Onondaga Reserve; that the Commissioner of Indian affairs has promised them they could have it. What any State legislature has to do with people who are a protectorate of the United States Government is a matter we should like his commission to determine for us. And what business the Commissioner

of Indian Affairs has to do with the Six Nations we want to know what funds he is using for propaganda against the Six Nations.

We should also like to know in what manner the attorney general of the State of New York is able to run the Department of Justice against the Six Nations.

In 1925 we brought an ejectment action into court against the St. Lawrence River Power Co. and the State of New York for the recovery of a mile square of land belonging to the Mohawk Nation. The State of New York secured Charles Evans Hughes to defend it. Representatives of the St. Lawrence River Power Co. spoke to the Six Nations, concerning a settlement out of court. After several of these conferences between them and representatives of the Six Nations, they suggested the Six Nations come into conference with them and still other representatives of the company, definitely prepared on two points:

1. That they be prepared to name the figure they would accept.
2. That they secured United States intervention in the settlement.

Since that time the Six Nations have been coming here trying to secure that protection which the United States guaranteed them for helping it to become a nation.

The CHAIRMAN. We will have to bring the hearing to a close and we will adjourn now, subject to the call of the chairman.

(Thereupon, at 12.30 o'clock p. m., the subcommittee adjourned, subject to the call of the chairman.)



SURVEY OF CONDITIONS OF THE INDIANS IN THE UNITED STATES

MONDAY, NOVEMBER 25, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS.
Salamanca, N. Y.

The subcommittee met, pursuant to the call of the chairman, at 10 o'clock a. m., in the Federal Building.

Present: Senators Frazier (chairman) and Wheeler.

Present also: Dr. John W. LeSeur, representing Senator Copeland; W. K. Harrison, agent, Salamanca, N. Y., representing the Indian Bureau of the Department of the Interior; John Collier, representing the American Indian Defense Association; Albert A. Grorud, special assistant to the subcommittee; and Nelson A. Mason, clerk of the committee.

The CHAIRMAN. The committee will please come to order. This hearing is held under the authority of Senate Resolution 79 (70th Cong.) authorizing the Committee on Indian Affairs of the United States Senate to hold hearings in regard to the Indian situation on various reservations throughout the United States. We want to find out the conditions among the Indians here and will be glad to hear any statements or complaints they may care to bring before the committee. Superintendent Harrison is here to represent the department. We also invited the Secretary of the Interior, the Commissioner of Indian Affairs, and the Assistant, to attend the hearings, but they are very busy at Washington and can not be here personally.

Our first witness will be Elon Eels.

STATEMENT OF ELON EELS, GOWANDA, N. Y.

(The witness was sworn by the chairman).

The CHAIRMAN. Please give your full name.

Mr. EELS. Elon Eels.

The CHAIRMAN. And your address.

Mr. EELS. Gowanda, N. Y.

The CHAIRMAN. Are you a member of the chief's council?

Mr. EELS. I am—of the Cayuga.

The CHAIRMAN. Of the Cayuga Nation?

Mr. EELS. Of the Cayuga Nation.

The CHAIRMAN. Perhaps you might as well tell us briefly about the condition of your people, or any particular phase of the situation that you want to bring before the committee.

Mr. EELS. Well, I appeared in Washington once before you, and I suppose I should not repeat here what I said there.

Senator WHEELER. Well, just go ahead and tell us your story.

Mr. EELS. Well, from my memory, the Cayugas here on these two Reservations, the Alleghany Reservation and the Cattaraugus Reservation, No. 193, I think; isn't that it, Mr. Harrison?

Mr. HARRISON. No. 197 or 198.

Mr. EELS. That is, on these two reservations. There are more on the Cattaraugus Reservation than on the Alleghany Reservation. On the Tonawanda there are 8 or 9, something like that, and about that number on the Onondaga. There are some in the cities and some in the Western States. There is another reservation, I think, in the State of Washington.

Senator WHEELER. What is your complaint, if you have any, about the situation here?

Mr. EELS. Well, our main complaint is that we have lost the reservation we had on the land that was taken away from us.

Senator WHEELER. When you say "us," you mean your tribe?

Mr. EELS. The Cayuga Nation. We lost our land by some sale, I suppose, and we are drawing an annuity now in the neighborhood of between \$7 and \$8.

Senator WHEELER. \$8 a year?

Mr. HARRISON. It comes to about \$7.30.

Mr. EELS. And we haven't got land that we can now call our own, but through the government of the Six Nations, as we call it, we are allowed to stay on this reservation, and it is so with the other reservations, too. We stay with the other reservations by belonging to the Six Nations government. We believe that is why we are allowed to stay on this reservation. According to the constitution of the Senecas, we are allowed to stay here, and so we are still here; but we are trying to get back to our reservation near Cayuga Lake. We are investigating a little bit, tracing it up, to see if we can get some of our land back. That is what we are trying to do now. We would like to have our reservation again. Of course I told in Washington about the Senecas asking us for \$75,000 for the right to live on this reservation. Nothing is said about the Cayugas living on other reservations; it is just these two reservations that are asking for settlement.

Senator WHEELER. This reservation belongs to the Seneca Tribe; is that correct?

Mr. EELS. Yes.

Senator WHEELER. And a lot of your Indians of the Cayuga Tribe are against a settlement requiring payment of \$75,000 for the privilege of living on it; is that correct?

Mr. EELS. Yes.

Senator WHEELER. What have you done with reference to that? Has there been any settlement of it?

Mr. EELS. We believe the way to do would be to dig up a reservation of our own again. We would like to stay together and be a family of Cayugas.

Senator WHEELER. Your reservation was sold, was it?

Mr. EELS. Yes; but we believe the sale was illegal.

Senator WHEELER. Where was your reservation located?

Mr. EELS. Cayuga Lake.

Senator WHEELER. To whom was it sold?

Mr. EELS. To the State.

Senator WHEELER. That is, the State sold it—or bought it?

Mr. EELS. Bought it.

Senator WHEELER. How much did the State pay for it?

Mr. EELS. We are getting a little annuity.

Senator WHEELER. You are getting a little annuity each year?

Mr. EELS. Yes.

Senator WHEELER. Who represented the tribe in selling it to the State of New York?

Mr. EELS. That must be in some records in Albany.

Senator WHEELER. You don't know?

Mr. EELS. No. There was one member by the name of Viscaria who has gone to Canada—Chief Viscaria. He is living in Canada.

Senator WHEELER. You have a claim for something like \$247,000 against the State of New York?

Mr. EELS. Yes; we are claiming something like that.

Senator WHEELER. What about that?

Mr. EELS. We sued the State of New York about nine years ago and we were allowed \$247,000.

Senator WHEELER. You were allowed \$247,000?

Mr. EELS. Yes; that is, it was lying in trust and we were drawing interest on that. It amounted to \$40 a year, which ran along for about four or five years, and then the Senecas came there and that was to be deducted from that \$247,000.

Senator WHEELER. The Senecas wanted to deduct from that \$247,000 the sum of \$75,000 for allowing your people the privilege of living on this reservation; is that correct?

Mr. EELS. Yes.

Senator WHEELER. And your people refused to allow that; is that correct?

Mr. EELS. Yes. We thought we could live here without paying that.

Senator WHEELER. How did you get the idea that you could live on the reservation without paying for the right?

Mr. EELS. As I told you in the first place, we belong to the Six-Nation government, and this is one of the Six Nations, where we live—the Senecas. It is a kind of Government, so we still think we have got the right to live on the reservation of one of the nations because we belong together, in the same government, the Six-Nation government. Another thing, my mother was a Cayuga and I had a Seneca father, and my father gave me the land to build a house on, so it seems that I own that under the rights of my father.

Senator WHEELER. Your father was a Seneca and by reason of the fact that you inherited the land from your father you feel that you have the right to live on it?

Mr. EELS. Yes.

Senator WHEELER. But how about the rest of your Indians; aren't there a great many of you?

Mr. EELS. They haven't any Seneca blood in them—there are very few. The only way they have been separating the nations was to follow the breed of the mother.

Senator WHEELER. At any rate, you sold your reservation to the State of New York for \$247,000, and then you moved from that reservation down here, onto this reservation; is that correct?

Mr. EELS. No; I will tell you how that was, how this \$247,000 arises: it was nothing but a moral obligation, what you might call an illegal settlement. The State took our land and made a lot of profit on it, a big profit, and on the profit we got a share of 5 per cent. That is how it was allowed.

Senator WHEELER. All right. Now, on this 90 acres of land that you have got here on this reservation that you claim you inherited from your father—

Mr. EELS (interrupting). I didn't say 90 acres.

Senator WHEELER. Well, how much is it?

Mr. EELS. Not so very much.

Senator WHEELER. According to this statement it says "Elon Eels;" is that your name?

Mr. EELS. Yes.

Senator WHEELER. It says that you are in possession of a 90-acre tract of land.

Mr. EELS. I included the pasture land. This is how that was.

Senator WHEELER. And that you leased two gas wells to the Finance Oil Co. and the Reservation Gas Co.

Mr. EELS. Yes.

Senator WHEELER. How much did you lease it for?

Mr. EELS. Well, just for the location I was paid \$50 for each well.

Senator WHEELER. Do they get oil or gas on it?

Mr. EELS. Yes.

Senator WHEELER. Do they pay a royalty?

Mr. EELS. No.

Senator WHEELER. Don't they pay a royalty?

Mr. EELS. They pay just for the location; \$50 for damage to the property in making that well.

Senator WHEELER. Do they pay any royalty to anybody at all?

Mr. EELS. I don't think so. I never heard of anyone getting it. The main thing I want is to get the reservation back and I suppose this is the right place to get help for that. That is my main intention in appearing here.

Senator WHEELER. I don't know whether this is the right place or not.

Mr. EELS. I believe so. At any rate, I don't know of any other place.

Senator WHEELER. At least we will listen to your complaint. That is about all we can do at this time.

Mr. EELS. That is my complaint.

The CHAIRMAN. Your reservation was sold by your chiefs to the State?

Mr. EELS. Yes; illegally. That is the way we believe.

The CHAIRMAN. But that dates back a long time ago?

Mr. EELS. Yes.

Senator WHEELER. How many years ago?

Mr. EELS. Well, I think the last sale was in 1795.

Senator WHEELER. The last sale was in 1795?

Mr. EELS. Yes. From what I have heard about it—what I have heard is by tradition, you know, from the old people—we believe

it wasn't sold. It was just taken by encroachment. That was the way we lost the reservation, and we would like to get it back. We were told by the white people, officials, too, that we had such land as that.

Senator WHEELER. Of course, you must understand this, that so far as this committee is concerned, and so far as Congress is concerned, we can not enter into a dispute with the State of New York.

Mr. EELS. I see.

Senator WHEELER. We can't have any trouble with the State of New York in that matter. You claim that the State of New York took your land illegally, so your claim would be against the State of New York for misappropriation of the land, if that was done.

Mr. EELS. Yes; I understand that. But that is the way I understand it—that you have a right to protect the Six Nations under treaties. We had the land, Ohio Valley land, that was paid to the United States for our protection under treaties.

Mr. GRORUD: Maybe I can clear this up for you. Is it not a fact that in 1795 the State of New York purchased 70,000 acres from the Cayugas at 50 cents per acre, and that some time in the early part of this century some of your chiefs complained to the State of New York that the State in reselling this land received more than 50 cents per acre for it, and that the amount received in excess of 50 cents per acre is \$247,000; and that the State of New York and its assembly have felt that there was no legal obligation but there was a moral obligation on its part, to pay this to the Cayugas, and, in accordance with such the State of New York and its assembly have awarded you \$247,000?

Senator WHEELER. Is that correct?

Mr. EELS. Yes—well, I had it this way: I said in Washington when we had the hearing there that the land was sold to the State of New York at 50 cents an acre, and that the State sold it for \$4.50 an acre six months after that, thus making a profit of \$4 an acre, and they allowed us 5 per cent on the profit. That was how it was.

Senator WHEELER. That is, they allowed you 5 per cent interest upon the profit?

Mr. EELS. Yes.

Mr. GRORUD. On the \$247,000?

Mr. EELS. On this amount of \$247,000.

Senator WHEELER. Do I understand now that you expect the Government to try to get the land back for you from the State of New York?

Mr. EELS. Well, in this way: As I say, it was not a legal sale, and it was not made according to the treaties.

Mr. GRORUD. Were the attorneys paid any fees out of the \$247,000?

Mr. EELS. Yes, I think there is one in here that has been paid \$9,000 by the name of Whipple. I think he is here.

Senator WHEELER. Mr. Whipple got \$9,000 attorney's fee out of the \$247,000?

Mr. EELS. And there are two in Rochester by the name of Van-Voorhis and Decker.

The CHAIRMAN. How was the amount of \$247,000 determined—by order of the court, or how?

Mr. EELS. By an order of the supreme court.

Senator WHEELER. By the Court of Claims of the State of New York; is that correct, Mr. Harrison?

Mr. HARRISON. By the land board.

Mr. EELS. We were going to settle it by a treaty and we found out that it couldn't be done. They found out there wasn't any treaty-making power as between just one State and this Indian Nation, so they thought it best to have it settled by order of the court.

The CHAIRMAN. The court allowed you so much money, and the State legislature appropriated the amount.

Senator WHEELER. The money has never been appropriated by the State.

Mr. EELS. Well, I don't know how it was granted, but they claim that the Senecas got after us for a settlement of \$75,000. We were getting this money without the signature of the governor, so it has kind of died down. That was how we lost it.

The CHAIRMAN. But you are paid interest on this money each year?

Mr. EELS. Not any more; that was only until four years ago.

The CHAIRMAN. You haven't been getting anything after the first year?

Mr. EELS. At first we had an annuity of \$7. That is what we get now. But this new claim, they had it stopped, we believe, on account of finding out that the appropriation wasn't signed by the governor.

The CHAIRMAN. Anything further?

Senator WHEELER. That is all.

The CHAIRMAN. What about this interest payment being stopped, that he speaks of?

Mr. HARRISON. I understand there has been no appropriation for interest made by the legislature since 1919. As to this proposition that he speaks of, there was an award made by the land board, I think, of the State, and that provided that upon an agreement to be made between the Cayugas and the Senecas by which the Cayugas would have property rights on the Allegany and Cattaraugus reservations, the Senecas should have the use of the \$75,000 at 5 per cent. That agreement which was to have been approved by the attorney general and the governor has never been made. That was a provision in the award, and a provision in the legislation of the State legislature. I think Mr. Grorud has that.

Mr. GRORUD. It has never been agreed upon by the Indians.

Mr. EELS. The agreement has never been made; and the State, I suppose, because this agreement hasn't been made, hasn't been appropriating interest on this money.

The CHAIRMAN. You said, Mr. Eels, that you got an annuity of \$7?

Mr. EELS. \$7.

Mr. HARRISON. It has been running to about \$7.30 for the past three or four years. That is a separate proposition.

Mr. EELS. It is.

Senator WHEELER. That hasn't anything to do with the \$247,000?

Mr. HARRISON. It hasn't anything to do with the \$247,000.

The CHAIRMAN. What is this \$7 annuity based upon?

Mr. EELS. That is a trust fund from some other purchase of land—interest on a trust fund.

The CHAIRMAN. Does the \$7 come from the Interior Department?

Mr. HARRISON. The State of New York.

The CHAIRMAN. Do these Indians get anything from the Government?

Mr. HARRISON. No; no money. They share in a cloth distribution.

Mr. EELS. May I go ahead a little further?

The CHAIRMAN. Yes.

Mr. EELS. The reason we are refusing to pay this \$75,000 is because we intend to go back and settle on that land again.

The CHAIRMAN. And bring suit in court?

Mr. EELS. Well, we were advised to go right back there and take up the place where we were, right near Cayuga Lake, and that is our intention.

Senator WHEELER. I think whoever gave you that advice gave you pretty poor advice.

Mr. EELS. Well, it was a State official; but you ought to find that out, though, I believe.

Senator WHEELER. All right.

Mr. EELS. Anyhow, that was why we refused to pay the \$75,000. We want to stay as Cayugas always and we are trying to sue the State through the Six Nations. We want to keep up our nation. If we don't have the same rights here that the Senecas have it will destroy our nation in time. That is the way we feel about it, being separated from the rest. They inherit from their mother, and we do the same. That was how it was divided all the time, among the sons. We keep our sons, and they keep theirs.

The CHAIRMAN. What about the health conditions among your people?

Mr. EELS. It is just about the same as the among the Senecas.

The CHAIRMAN. Where do your children go to school?

Mr. EELS. Some school over here near the Allegany River—a Quaker school. Some go to the Thomas Indian Asylum.

The CHAIRMAN. Are they Government or State schools?

Mr. EELS. State.

Senator WHEELER. The Quaker School is supported by voluntary subscriptions from The Friends.

The CHAIRMAN. Are all the children of school age attending school?

Mr. EELS. Yes; just the same as the Senecas.

Mr. HARRISON. They are State-maintained schools. This other school that he spoke of, the Thomas Indian School, was originally an orphan asylum; but they maintain district schools aside from that.

STATE OF NEW YORK, COMPTROLLER'S OFFICE.

Albany, March 9, 1917.

Mr. JOHN CROW,

Turkeyford, Okla.

DEAR SIR: In reply to your letter of the 22d ultimo, requesting information concerning the Western Band of Cayuga Indians, this department begs to advise you that according to the provisions of chapter 255 of the Laws of 1909, the commissioners of the land office at a meeting held on April 23, 1913, allowed the claim of the Cayuga Nation of Indians as follows:

Cayuga Indians residing in the State of New York, annuity of 5 per cent on \$146,857, or \$7,342.85 annually, payable on the 23d of April and 23d of October in each year, attorneys' fees and disbursements, \$18,215.89. Western Band of

Cayuga Nation of Indians, annuity of 5 per cent on \$73,264.66, or ——— annually, payable on the 23d of April and 23d of October in each year; attorneys' fees and disbursements, \$9,271.78.

The annuities for the Western Band of Cayuga Indians are paid to David K. Harvey, treasurer, upon an order signed by Jack Armstrong, Edward Mingo, and James Logan, chiefs, and payments have been made as follows:

To David A. Harvey, treasurer:

Oct. 28, 1913.....	\$1, 831. 62
May 6, 1914.....	1, 831. 86
Oct. 26, 1914.....	1, 831. 61
Apr. 27, 1915.....	1, 831. 62
Oct. 25, 1915.....	1, 831. 86
May 2, 1916.....	1, 831. 86
Oct. 20, 1916.....	1, 831. 36

The annuities due the Cayuga Band of Indians residing in New York State are being paid semiannually to William S. Lawton, Indian agent, upon an order signed by the chiefs of the Cayuga Band of Indians.

Yours very truly,

EUGENE M. TRAVIS, *Comptroller*.

The CHAIRMAN. That is all. The next witness will be Cephus A. Watt.

STATEMENT OF CEPHAS A. WATT, SALAMANCA, N. Y.

The witness was sworn by the chairman.

The CHAIRMAN. Give your full name to the reporter.

Mr. WATT. Cephas A. Watt.

The CHAIRMAN. You are one of the council chiefs?

Mr. WATT. Yes; not the council president.

The CHAIRMAN. No; but one of the chiefs?

Mr. WATT. Yes.

The CHAIRMAN. What is your address?

Mr. WATT. 63 East State Street.

Senator WHEELER. You are one of the councilmen?

Mr. WATT. Well, not a councillor; that is, under the president. I am in the council under the president.

Senator WHEELER. As I understand it, here on the reservation you belong to the Senecas?

Mr. WATT. Yes.

Senator WHEELER. The Senecas under the statutes of New York elect a council, is that correct, and then elect a president?

Mr. WATT. Well, this government on the Seneca Reservation, is separate from the State government.

Senator WHEELER. Separate from the State Government?

Mr. WATT. Yes. They do, by permission of the State, use the forms of the State, that is, the election forms, you know.

Senator WHEELER. Yes. Well, the Senecas do elect a council, is that correct, and elect a president?

Mr. WATT. Yes.

Senator WHEELER. And that council and that president have been leasing land up here on this reservation?

Mr. WATT. Yes.

Senator WHEELER. And land here in the city?

Mr. WATT. Yes.

Senator WHEELER. And, as I understand it, this land here in town is leased under a 99-year lease?

Mr. WATT. Yes.

Senator WHEELER. What rents do you get from these 99-year leases?

Mr. WATT. Well, I think I have sent in a statement. I think Mr. Grorud has it.

Senator WHEELER. I have your statement here, but I want it for the record. You say in this statement that the Seneca Nation possesses and occupies three reservations.

Mr. WATT. Yes.

Senator WHEELER. The Allegany, Cattaraugus and Oil Spring; all located in the western part of the State of New York. Then you say, "There are approximately 52,739 acres in these reservations; Allegany being the largest, with 30,469 acres; Cattaraugus, with 21,630 acres; and the Oil Spring, with 640 acres." Now, what is this reservation?

Mr. WATT. This is the Allegany Reservation.

Senator WHEELER. Now, you say that the "Seneca Nation Council granted certain leases of lands with renewals on the Allegany reservation to white occupants for 12-year periods and approved by act of Congress February 19, 1875."

Mr. WATT. Yes.

Senator WHEELER. "18 Stats. 330."

Mr. WATT. Yes.

Senator WHEELER. "Six villages were surveyed, as follows: Vandalia, 240 acres; Carrollton, 2,200 acres; Great Valley, 260 acres; Salamanca, 2,000 acres; West Salamanca, 750 acres; Red House, 40 acres. Beginning on or about the year 1880 the treasurer of the Seneca Nation collected large revenues from these leases each year. In the year 1883 \$11,408 was collected."

Mr. WATT. Yes.

Senator WHEELER. Is that your understanding?

Mr. WATT. Yes; that is on record.

Senator WHEELER. Now, you say that "when the 12-year leases were about to expire a committee of 14 merchantmen and lawyers of Salamanca negotiated with the Indian committee of 3 members, who were appointed by the Seneca Council, to renew the Indian land leases for 99 years"—

Mr. WATT (interrupting). Just there, I wish to correct you.

Senator WHEELER. Yes.

Mr. WATT. They were appointed to renew these 12-year leases.

Senator WHEELER. I see.

Mr. WATT. But there had been negotiations for renewing these 12-year leases for 99 years, you see. So I just put it down there.

Senator WHEELER. You say they were appointed by the tribe for the purpose of leasing the land for 12 years—renewing it for 12 years?

Mr. WATT. Yes.

Senator WHEELER. But do I understand you, notwithstanding the fact that they were appointed to make the lease for 12 years that they actually made it for 99 years? Is that what you are trying to say to me?

Mr. WATT. You see, these 12-year leases are renewable after 12 years, and when these leases were about to expire then the committee was appointed.

Senator WHEELER. The committee of the council?

Mr. WATT. The committee of the council, yes. And they already, you see, outside of the council, had negotiated with the people of Salamanca to extend these leases for 99 years.

Senator WHEELER. I don't think I quite understand you. You say they had negotiated outside of the council?

Mr. WATT. Yes, outside of the council.

Senator WHEELER. Who negotiated outside of the council?

Mr. WATT. This white committee. So when they sat in the council they came on to the subject of the 99-year leases.

Senator WHEELER. I see. And the council then granted them leases for 99 years, is that correct?

Mr. WATT. Yes.

Senator WHEELER. Is this the report of the committee, what purports to be a photostatic copy of it [exhibiting same]?

Mr. HARRISON. I understand so. I don't think that I ever saw the original.

SENATOR WHEELER. Well, we will put this in the record at this point.

THE CHAIRMAN. Yes, I think it should go into the record.

(Said photostatic copy of "Report of Conference Committee" is here printed in full, as follows:)

REPORT OF CONFERENCE COMMITTEE TO COUNCIL OF SENECA NATION CONCERNING
THE RENEWAL OF LEASES UPON THE ALLEGANY RESERVATION

Submitted April 9, 1892

To the Council of the Seneca Nation of Indians:

Your committee appointed to confer with a committee of the people of Salamanca concerning the renewal of leases upon the Allegany Reservation, respectfully report as follows:

Upon receiving our credentials, we proceeded to hold a conference with a committee of the people of Salamanca, at which we took the opportunity to express to the white citizens the great desire on the part of the Seneca Nation and of this council to live in harmony and sincere friendship with all the people residing upon our lands. And we received in turn from them many kind expressions of good will and of a willingness to deal justly by our people and to treat them with fairness in all their relations with us.

We were assured by the committee that the white people of Salamanca have no desire for further legislation relating to our lands or to our people, that in their opinion it would not be advisable for our nation to lease or sell any further lands, and that they will join with us if desired in opposing any further encroachment upon our lands or attempts to change our condition as a tribe or nation, without our consent, either by action of the State legislature or of Congress.

We were further assured that in any difficulty into which our Nation may hereafter fall by way of litigation or other trouble, we shall find in the people of Salamanca faithful allies and friends, who will at all times render to us such assistance as they may be able, to protect our rights and to increase the prosperity and happiness of the Seneca Nation of Indians.

After these mutual expressions of good feeling we proceeded to discuss and agree upon details of the business intrusted to us, that of the renewal of the leases, and we reached the conclusions hereinafter set forth which we recommend for adoption by the council.

First. That renewal of leases be made for the term of 99 years.

Second. That such renewals be made upon the basis of the total lease money paid to the nation by the leaseholders of the several villages for the past year as provided in the schedules of the said leaseholders committee, provided, however, that the total increase of rents on such renewal leases shall be at least 30 per cent above the present total, and further provided that no lease

shall be granted of lands upon which a dwelling house stands for a less annual sum than \$2.00. And that no lease shall be granted upon any tract of land for a less annual rental than \$1.50.

We further recommend that a clause be inserted in such renewal leases providing for the future payment of the money to be paid as rent to the treasurer of the Seneca Nation, its successors or assigns or legal representatives.

We further agreed with said committee and report that such renewal leases shall contain a provision for the payment of all rent reserved in sub-leases to the treasurer of our nation, such amount in no case to fall below \$1 annually for all tracts of land suitable for building purposes.

We further received from such white committee the positive agreement and promise that they would cooperate with the council in compelling, so far as might lie in their power, the lessees to pay the sums named as rents as set forth in the schedules prepared of which copies are furnished to the council, and a list of names of business men was furnished to us, who will undertake to act as referees for the nation if desired and who will uphold the nation in exacting such schedule prices.

In conclusion, your committee report that in their opinion the foregoing terms are the best that can be agreed upon, that such terms are the result of mutual concessions on the part of the nation and of the lease holders, that such terms will have the happy effect of promoting and continuing the spirit of friendship that has heretofore existed between the people of the Seneca Nation of Indians and their white tenants, that they will increase the prosperity of the village of Salamanca and the other villages, and will result as well in great benefit to us as a nation and that by such terms the rights of our people will be fully protected.

Respectfully submitted, April 9.

C. C. LAY,
HARRISON HALFTOWN,
W. C. HOAG,

Committee in behalf of the Seneca Nation.

We concur in the foregoing:

W. T. FISH,	O. S. VREELAND,
THOS. A. HELLER,	S. H. SEYMOUR,
J. S. WHIPPLE,	CAREY D. DAVIE,
HUDSON ANSLEY,	E. B. VREELAND,
CHARLES NIES,	T. H. DOWD,
H. O. WAIT,	G. W. COLE,
CHAS. E. GALLAGHER,	JAS. CRAWFORD.

Senator WHEELER. You stated, off the record, Mr. Superintendent, that there was an act passed by Congress authorizing the granting of these leases for 99 years?

Mr. HARRISON. In 1890, I think.

Senator WHEELER. What was the fact with reference to that, so as to keep the record in chronological order?

Mr. HARRISON. Haven't you a copy of it?

Senator WHEELER. Just make a statement. What is the fact, as you understand it?

Mr. HARRISON. This act of 1875 was amended in 1890, authorizing the council to grant leases for 99 years in these villages.

Senator WHEELER. Have you a copy of that act here?

Mr. HARRISON. I think I have one in the office there. It is the only one that I have.

Senator WHEELER. Now, according to this agreement, the removal of leases for a term of 99 years, is the first item?

Mr. WATT. Yes, sir.

Senator WHEELER. Then [reading:]

Second. That such renewals be made upon the basis of the total lease money paid to the Nation by the leaseholders of the several villages for the past year as provided in the schedules of the said leaseholders committee; provided, however, that the total increase of rents on such renewal leases shall be at

least 30 per cent above the present total, and further provided that no lease shall be granted of lands upon which a dwelling house stands for a less annual sum than \$2. And that no lease shall be granted upon any tract of land for a less annual rental than \$1.50.

That was the understanding that the council had with the committee of white citizens, was it?

Mr. WATT. Yes, sir.

Senator WHEELER. In your statement here you claim that those provisions were not carried out?

Mr. WATT. Yes, sir.

Senator WHEELER. Well, in what way were they not carried out?

Mr. WATT. Well, the one thing there that I don't understand was the increase of 30 per cent on the "present total" of the lease granted. I don't understand the 30 per cent increase.

Senator WHEELER. What don't you understand about it?

Mr. WATT. Well, we were at that time getting, in the year 1883, eleven thousand and some odd dollars—

Senator WHEELER (interposing). \$11,408, according to your statement.

Mr. WATT. Yes. And what I supposed that meant was a 30 per cent increase on that sum. We are getting now, according to the agent's statement, only about \$8,000.

Senator WHEELER. What was the population of Salamanca, if you know, in 1883, when you were getting this \$11,408?

Mr. WATT. I don't know.

Senator WHEELER. What is the population of the town at the present time?

Mr. WATT. At the present time?

Senator WHEELER. Well, approximately, I mean.

Mr. WATT. It is around 10,000, I should imagine.

The CHAIRMAN. It is a good deal larger now than it was back in the eighties, isn't it?

Mr. WATT. Oh, yes.

Senator WHEELER. Well, at any rate, it is several times larger now than it was back in 1883, when this agreement was entered into?

Mr. WATT. Yes.

Senator WHEELER. And, according to your statement, you were getting eleven thousand and some odd dollars at that time, and, at the present time you say, according to the reports of the special agent in charge, you are getting only about \$8,000?

Mr. WATT. About \$8,000.

Senator WHEELER. Now, do you know why that is, that you are not getting as much now as you were then?

Mr. WATT. No.

Senator WHEELER. Perhaps you can clear that up, Mr. Harrison?

Mr. HARRISON. I don't know.

Senator WHEELER. Do you know how much you are getting now?

Mr. HARRISON. Yes.

Senator WHEELER. How much are you getting now?

Mr. HARRISON. About \$8,000; but why it is less than he claims it was then I don't know.

Senator WHEELER. Does that \$8,000 include the leases for oil, gas, and everything?

Mr. HARRISON. No; that is just for leases for property held in these villages named in this act of 1875. I don't find a copy of that act of 1890. The date was September 30, 1890—Twenty-sixth Statutes, 558.

Senator WHEELER. Now, in your statement you say:

The Seneca Council, after much discussion and a prolonged debate on the report, finally granted the 99-year term, it being alleged by witnesses who were present at the council meeting that intoxicating liquors, bribery, and otherwise undue influence were used in obtaining majority consent of the council in granting the 99-year term.

Now, of course, you were not present at the time?

Mr. WATT. No.

Senator WHEELER. And you don't know anything about that of your own knowledge?

Mr. WATT. No.

Senator WHEELER. That is hearsay, so far as you are concerned?

Mr. WATT. Hearsay, so far as I am concerned; yes.

The CHAIRMAN. How long have you been one of the chiefs here?

Mr. WATT. Well, I am not a confirmed chief; that is, according to the proceedings for installing chiefs.

Senator WHEELER. You are one of the opposing party?

Mr. WATT. Yes.

Senator WHEELER. You don't belong to the old guard, is that it?

Mr. WATT. No.

Senator WHEELER. You belong to that crowd that Senator Moses termed the "wild jackasses"?

Mr. WATT. Huh, huh, huh; yes.

Senator WHEELER. One of the insurgents, is that it?

Mr. WATT. Yes.

Senator WHEELER. I find in this report from James C. Meyers in 1905 to the Commissioner of Indian Affairs (reading):

Much opposition to the long-term leases developed and protracted negotiations followed, culminating in April, 1892, in an agreement between a committee of the Seneca Council and a committee of the people of Salamanca. This was embodied in a report to the council, a copy of which, printed at the time, I have appended to this report as an exhibit. Upon the basis of this report the council made leases for 99 years and fixed rentals, but instead of the aggregate rentals showing an increase of at least 30 per cent, as provided by the report, they were really less than the total rents derived under the 12-year leases. I was convinced by the information which I received that improper influences were brought to bear upon members of the council and that the Indians' interests suffered in consequence. I was told that between \$4,000 and \$5,000 was the amount expended in various ways, one method being to induce obdurate members of the council to resign to give place to complaisant new members, the average price for the resignation being \$150. Whether or not this story is true, the trifling rents reserved are sufficient evidence of the incompetence or malfeasance of the council.

That is along the same understanding that you are trying to tell us about?

Mr. WATT. Yes.

Senator WHEELER. In your statement you say (reading):

The white committee knew real well that the Indian likes both liquor and money, and it was a safe bet that a majority of the Indian councilors would vote for the 99-year term when all they would do was to raise a hand for \$50, and those who were bitterly opposed to the proposition were paid handsomely.

Do you know that?

Mr. WATT. I don't know that.

Senator WHEELER. That was just hearsay with you, then?

Mr. WATT. Yes.

The CHAIRMAN. Is there a tradition among the older Indians bearing out a statement of that kind?

Mr. WATT. You mean witnesses bearing out that statement?

Senator WHEELER. Yes.

Mr. WATT. Yes.

Senator WHEELER. Are there any old Indians present that would know about it?

Mr. WATT. I don't know. Mr. Logan is here from the council. He is the oldest surviving councillor of that time—Charles Logan.

Senator WHEELER. Is he here?

Mr. WATT. He might be present this afternoon. Mrs. King Tandy Jimerson. I think, is included in that list there, with Charles Kennedy. I don't know whether he is present this morning.

Senator WHEELER. Now, you say in your statement:

Most all the promises made by the white committee as set forth in the agreement of 1892 have to my knowledge not been complied with.

In what way have these promises not been complied with?

Mr. WATT. Well, in the full text of the agreement the Salamanca citizens had agreed to help the Indians—that is, whenever they got in trouble, or when they got into litigation, something like that—and I have never known in my lifetime where the citizens of Salamanca have helped the Indians in any way, as far as interceding for them was concerned.

Senator WHEELER. You mean, when they were arrested you wanted the white citizens to go down and get them out of jail—something like that?

Mr. WATT. No; it is not that. And they didn't keep their word on this 30 per cent increase. Of course, I included that in the statement.

The CHAIRMAN. The rental was decreased instead of being increased?

Mr. WATT. Yes; it was decreased.

Senator WHEELER. In your statement you say:

It is specifically provided in the agreement that the total increase of rents on such renewal of leases should be at least 30 per cent above the present total. But according to the special agent's report the amounts collected by him are as follows:

For the year 1920.....	\$8, 619. 90
For the year 1921.....	7, 594. 89
For the year 1922.....	9, 022. 28
For the year 1923.....	7, 162. 45
For the year 1924.....	7, 164. 80
For the year 1928.....	8, 872. 29

Whereas, as stated before, \$11,408 was collected for the year 1883 under the 12-year term.

Are those figures, Mr. Superintendent, the correct amounts collected?

Mr. HARRISON. I haven't verified them; I assume they are.

Senator WHEELER. Well, now, all of those moneys are supposed to be collected by the special agent in charge; is that correct?

Mr. HARRISON. Yes, sir.

Senator WHEELER. The money is supposed to be turned over to him?

Mr. WATT. Yes, sir.

Senator WHEELER. What is supposed to be done with that money after that?

Mr. WATT. It is supposed to be distributed among the members of the tribe.

Senator WHEELER. Now, tell me, when was a special agent first appointed here.

Mr. WATT. Why, I think in 1901.

Mr. HARRISON. Let us not get that mixed.

Senator WHEELER. If there are any mistakes made I want you to correct them as we go along.

Mr. HARRISON. There has been an agent for these Indians ever since Revolutionary times or before, I guess. Congress passed an act known as the Ryan Act in 1901 authorizing the collection of these rentals by the agent in charge. Up to that time these rentals were collected by and paid to the treasury of the Seneca Nation.

The CHAIRMAN. Superintendent Harrison, any time you want to ask any questions of the witnesses you are at liberty to do so.

Senator WHEELER. Or, if you want to correct any statements they make.

The CHAIRMAN. Yes.

Senator WHEELER. You say in your statement here:

Officials of the Seneca Nation did all in their power to prevent legislation of Congress regulating the collection of lease rentals.

Then you say:

Prior to 1892 there were fewer houses and business establishments, but to-day there are several thousand leases and subleases within the incorporated city of Salamanca, each paying a few dollars to the agent every year. And some of the lease holders are not paying the rent because the agent claims he has no authority to compel them to pay.

How about that, Mr. Superintendent?

Mr. HARRISON. That statement about the number of houses and business places in 1892 as compared with the present, of course, is true. These leases, each one of them, provide the amount of rental which they are to pay.

Senator WHEELER. Have you a copy of one of those leases to put into the record?

Mr. HARRISON. I have one in the book.

Senator WHEELER. Haven't you got a separate lease?

Mr. HARRISON. No; I am sorry, I haven't.

Senator WHEELER. You can have the clerk make a copy and send it to us.

Mr. HARRISON. Yes, sir.

The CHAIRMAN. Just send it to the Senate Committee on Indian Affairs.

Mr. HARRISON. It is a fact that there are some delinquent leases. For instance, the village of Carrollton, which was a prosperous village when these leases were granted, has been one of those villages which have pretty nearly disappeared. People have left there and some of those leases are being abandoned, and some of the lessees are applying for reduction in their rentals. Within the last year or

so applications of that kind have been made to the council and those leases, of course, are not being paid.

The CHAIRMAN. Does the council have the right to change these leases?

Mr. HARRISON. I assume that the council does have the right to modify them if it seems fit.

The CHAIRMAN. Has that been done by the council?

Mr. HARRISON. No; not to my knowledge. I think it was about 1913 when the attorney for the Seneca Nation, who was appointed by State authorities, brought one or two actions against delinquents at that time for abandonment of the leases if the rentals were not paid. Since that time reports from time to time have been made to the council, and for the last two years notice was published in the paper to the effect that if delinquent rentals were not paid action would be taken on them by the council, and that led to the collection of a larger amount of rentals in the last two years than there had been before that. There are still some delinquent, and some of them will probably revert on account of the conditions.

Senator WHEELER. I assume that the leases provide that in the event of failure to pay the rental in a certain length of time that the lease is subject to forfeiture.

Mr. HARRISON. No; I don't think the leases provide for that.

Senator WHEELER. Of course they would automatically be forfeited.

Mr. HARRISON. They would be forfeited automatically.

Senator WHEELER. I am inclined to think they would. Now, here in the city, what do the railroads pay for rights of way?

Mr. HARRISON. The railroads don't pay anything to me for rights of way. If they have any land here outside of their rights of way that they have acquired in recent years they pay rental on that, but there is no payment made for the right of way.

Senator WHEELER. How did they get their rights of way?

Mr. HARRISON. That was beyond my time.

Senator WHEELER. As special agent I should think it would be part of your duties to know.

Mr. HARRISON. The Erie Railroad was put through here 75 years ago. How that right of way was granted I don't know. I don't know about the B., R. & P.

Senator WHEELER. I wish you would make a note of this: I wish you would furnish the committee with information as to the number of delinquent leases, the amounts, and the length of time they have been delinquent and the names of the people who are delinquent. If you can't do it to-day you can send it to the committee.

Now, what does the city pay?

Mr. HARRISON. The city pays for whatever land it has, according to the terms of the lease under which that land was granted.

Senator WHEELER. Do you know how much the city pays?

Mr. HARRISON. I don't know just what the amount of the city payment is now. They pay for the sites of their schoolhouses, their hospitals, city hall, and whatever property they occupy, according to the terms of the lease.

Senator WHEELER. I was wondering what about the streets. What does the lease provide with reference to the streets? How do they set out their streets?

Mr. HARRISON. They have to deal with the owners of the property, just the same as you would in any place.

Senator WHEELER. That is, they go ahead and condemn a piece of property?

Mr. HARRISON. The proceeding is just the same in laying out streets here as in any other place in the State.

Mr. WATT. Mr. Chairman, there is a house up here on East State Street. There is an old lady there. I asked her how much she was paying. Well, she didn't tell me how much she was paying at that time. She went back to state about when they first bought the property. When they bought the property there was about ten months delinquent payments on it when this new buyer took it over. He asked the agent, whoever it was at that time, if he had to pay all this. He said, "I just bought this property. Have I got to pay all this back rent?" "Well," the agent says, "You can if you want to."

Senator WHEELER. Who was the agent?

Mr. WATT. I don't know.

Senator WHEELER. That was what this woman told you?

Mr. WATT. Yes. This woman probably knew who the agent was. She says, "We didn't pay. We haven't paid."

Senator WHEELER. What is the woman's name?

Mr. WATT. Mrs. Collins, 222 East State Street.

Senator WHEELER. In this statement you say, "At Carrollton, which is one of the leased 'villages,' a white man owns and occupies a farm of about 60 acres and pays to the agent \$7.50 per year. And another man has a 51-acre farm for which he pays \$50 yearly."

What do you know about that?

Mr. WATT. A man by the name of Detrick Plummer; I saw just the other day that Detrick Plummer had sold his property up here. He was a man that was paying about a dollar an acre there.

Senator WHEELER. He had 51 acres up there and was paying a dollar an acre?

Mr. WATT. Yes, sir.

Senator WHEELER. And the other man's property was adjoining his property?

Mr. WATT. Yes, sir.

Senator WHEELER. What was his name?

Mr. WATT. I don't know.

Senator WHEELER. Who owns it?

Mr. HARRISON. Detrick Plummer was one of the lessees who made application to the council for a reduction of his rent. He has been complaining about his rent up there ever since.

Senator WHEELER. Is he the one that has been paying \$50 rent?

Mr. HARRISON. He has been complaining about the excessive rent he had to pay on this property and he made an application to the council for a reduction of his rent.

Senator WHEELER. Is he the man that pays \$7.50 a year for about 60 acres, or is he the man that pays \$50 a year for the 51 acres?

Mr. HARRISON. I don't know, I will have to look that up. There are several adjoining owners, but which one he might be I don't know without looking it up.

Mr. WATT. Plummer was telling me this: He said, "I sent an investigator up there, and I have got all the papers." I asked him if he wouldn't let me have the papers, and he said he would, but I never called for them. Mr. Harrison, will you tell us about that bill you sent to the city council—along the creek over there—I saw in the paper about your sending in a statement.

Mr. HARRISON. There was a lease granted for the river bed over here, by the council, and when this new city hall was built it was reported that the city purchased this lease; and I sent a statement to the clerk, the city clerk, for the amount of the lease, as shown by the books. Payment was refused on it. They said that they didn't acquire the property described in this lease.

Mr. WATT. Anyhow, I saw the statement in the paper for something like \$40 or \$48.

Mr. HARRISON. The rental reserved in this lease is \$10 a year.

Senator WHEELER. Tell me what you know about these oil leases up here.

Mr. WATT. The oil leases, I don't know very much about the oil leases.

Senator WHEELER. Who is there from the council here? Is there anyone representing the council that can tell us anything about these oil leases, how they are granted?

Mr. WATT. I think I have the names of some of those for the oil and gas leases. I think Mr. Snyder here—

Senator WHEELER. (interrupting). Is he a member of the council? Do you know anything about those leases, Mr. Snyder?

Mr. WATT. What leases?

Senator WHEELER. Oil leases granted by the council here.

Mr. SNYDER. I don't know all of them.

Senator WHEELER. Are there any members of the council here? Is the president here?

Mr. HARRISON. Yes, the president is here.

Senator WHEELER. Let him step forward. Is there anybody here that knows anything about them, how much royalties are paid, or anything of that kind?

Mr. HARRISON. I can tell you how much royalty is paid.

Senator WHEELER. Let me ask you this: How many oil leases are there?

Mr. HARRISON. I don't know. I heard about two the other day that I had never heard about before.

Senator WHEELER. How many wells produce here at the present time?

Mr. HARRISON. I don't about the number of wells. This oil is paid for by the refinery which receives the oil, which checks up so many barrels at so much per barrel.

Senator WHEELER. Where is that paid?

Mr. HARRISON. It is paid to me direct from the refinery where the oil is sold.

The CHAIRMAN. You have nothing to do with the leasing of the well?

Mr. HARRISON. No, sir.

The CHAIRMAN. Nor as to the fixing of the royalty?

Mr. HARRISON. No. The same way with the gas produced on the Cattaraugus Reservation.

Senator WHEELER. Now, the only producing well that you know of on this reservation is the one that you have spoken of?

Mr. HARRISON. There is more than one well.

Senator WHEELER. How many are there?

Mr. HARRISON. I don't know. The wells in the Chippmonck territory produce.

Senator WHEELER. How much money are you receiving from this oil?

Mr. HARRISON. I don't know. I can get that.

Senator WHEELER. It seems to me that it is an awfully loose way of doing business up here on the reservation. How are you going to know how much you ought to get if the council makes leases?

Mr. HARRISON. That is the situation.

Senator WHEELER. It is a situation that seems to me ought to be changed.

Mr. HARRISON. Those leases are not filed in the office.

Senator WHEELER. None of those leases are filed with you at all?

Mr. HARRISON. No.

Senator WHEELER. Have you anything to do with the approving of the leases?

Mr. HARRISON. Nothing.

Senator WHEELER. Have any of those leases to your knowledge been approved by the Indian Bureau?

Mr. HARRISON. Oh, some of them have.

Senator WHEELER. Can you tell me how many oil leases there are on the reservation at the present time?

Mr. HARRISON. I can not.

Senator WHEELER. Can you tell me how many producing wells there are?

Mr. HARRISON. I can not.

Senator WHEELER. Can you tell me how much money you are getting from the oil wells?

Mr. HARRISON. Yes, from the records in the office.

Senator WHEELER. All right. Will you please have your stenographer look that up and give it to us.

Mr. HARRISON. Yes. As I say, I heard of two oil leases—on the street—that I never heard of before.

Senator WHEELER. When were they granted?

Mr. HARRISON. Oh, I should say, probably 20 or 25 years ago.

The CHAIRMAN. Have they been producing all this time?

Mr. HARRISON. No.

Senator WHEELER. Have they been drilled?

Mr. HARRISON. Yes.

Senator WHEELER. Have they got oil?

Mr. HARRISON. I don't know.

Senator WHEELER. Maybe they were not drilled deep enough.

Mr. HARRISON. There was one producing a little oil from a shallow well up here on the hills. That territory has been abandoned for a number of years, and there hasn't been any production from it. I was told that that lease was in that locality.

Senator WHEELER. Now, can you tell me how many gas leases there have been on the reservation—approximately how many? Mr. Grurod suggested that there had been about a hundred gas wells on the reservation.

Mr. HARRISON. You asked me about gas leases.

Senator WHEELER. Well, how many wells?

Mr. HARRISON. There is a company operating under one gas lease at the present time. The payment for last year was for some 64 or 65 wells; I can give you that from the records.

Senator WHEELER. What royalty do they pay on the gas?

Mr. HARRISON. \$100 a well.

Senator WHEELER. For a year, or—

Mr. HARRISON. A year.

Senator WHEELER. They don't pay on the royalty basis, as to the amount they produce?

Mr. HARRISON. Regardless of the amount they produce it is \$100 a well—well, if they produce over 3,000,000 cubic feet they pay \$200.

Senator WHEELER. Are there any of them on the reservation who pay over \$100?

Mr. HARRISON. No.

Senator WHEELER. None of them pay \$200?

Mr. HARRISON. No.

Senator WHEELER. Are there any of them that you know of producing that much?

Mr. HARRISON. My information is that they are not.

Senator WHEELER. What check-up have you made; what measurement have you made?

Mr. HARRISON. I haven't any way of checking it. The wells are all piped into one line, and there is so much gas passing through an orifice.

Senator WHEELER. You just get a report—

Mr. HARRISON (interrupting). I get a report from the purchaser of the gas.

Senator WHEELER. Who owns this gas company?

Mr. HARRISON. Well, is it the Finance Oil Co.?

Doctor BOLARD. The Finance Oil Co. and Reservation Gas Co.

Senator WHEELER. Are there local people here that own that?

Mr. HARRISON. Doctor Bolard is one of the officers of that company.

Senator WHEELER. They are local people, are they?

Mr. HARRISON. Mostly.

Senator WHEELER. Directors, and so on?

Mr. HARRISON. Mostly.

Senator WHEELER. And you, in turn, sell it to some one else, do you, Doctor?

Doctor BOLARD. We sell it to the Yaqui Gas Co., at Buffalo.

Senator WHEELER. Let me ask the superintendent—coming back to these leases on the land—have there been any leases of land made recently for the period of 99 years?

Mr. HARRISON. Well, they are made for the unexpired part of that 99 years.

Senator WHEELER. How do you mean, that they are made for the unexpired part of it?

Mr. HARRISON. Well, your lease expires in 1991, say; a lease made now would be for the period from until 1991.

Senator WHEELER. So as to get that correct—

Mr. HARRISON (interrupting). There were one or two leases granted within the last couple of years—one for a gas station over here, on one or two small lots.

The CHAIRMAN. They are granted by the council, are they?

Senator WHEELER. Are they subject to approval—

Mr. HARRISON (interrupting). No; these are within this authorized lease territory, within the territory authorized by this act of 1875.

The CHAIRMAN. But they pay their lease money to you as superintendent here?

Mr. HARRISON. Yes.

Senator WHEELER. Now, when a man has a lease, say on an acre of land, and he subdivides it into different portions of land, how do they pay, and how much do they pay?

Mr. HARRISON. There is an agreement, to which reference has been made here, providing that when the land is subdivided each lot sold off shall pay \$1 a year.

Senator WHEELER. That is a subdivision of the lease?

Mr. HARRISON. For instance, you have an acre of land, and you sell off 50 feet by 100 feet; that lot pays a dollar a year. Every lot sold off pays a dollar a year.

Senator WHEELER. Is the lease money here in town pretty generally paid up?

Mr. HARRISON. There are not very many delinquents in the town.

Senator WHEELER. Where do most of the delinquents come from?

Mr. HARRISON. Well, Carrollton furnishes about as many as any place. The largest amount of delinquents are up there.

Senator WHEELER. What are the total revenues that you take in from Indian property here on the reservation? I mean the total revenues for everything.

Mr. HARRISON. I can't tell you exactly.

Senator WHEELER. Approximately.

Mr. HARRISON. It is around \$16,000 for this last year. The gas leases are approved by the Bureau of Indian Affairs.

Senator WHEELER. How about that, Doctor?

Dr. BOLARD. Yes, sir, they are approved by the Bureau of Indian Affairs.

The CHAIRMAN. What is the amount of annuity paid each of these Indians at the present time?

Mr. HARRISON. Well, there were a few of them getting \$8.64 this year. Oh, nearly all of them get \$8.63. You see, the difference of a cent comes when you come to divide the amount by the total number of Indians. There will be a few cents remaining, and that is why some of them get more.

Senator WHEELER. Would you have any records in your office showing what, if anything, the Erie Railroad and the other railroads pay these Indians for their rights of way across the reservation?

Mr. HARRISON. No.

The CHAIRMAN. Do you think, Mr. Superintendent, that you can find out and report to us later what the original bargain was between the Indians and the railroad company?

Mr. HARRISON. I couldn't unless I could get that from the railroad company. I think you can probably get it from the railroad company easier than I can. They have a right of way.

Senator WHEELER. Yes. Give us the names of the railroad companies.

Mr. HARRISON. On this reservation there is the Erie Railroad, which is the oldest; there is the Buffalo, Rochester & Pittsburgh Railroad; and the Pennsylvania Railroad. The right of way to the Pennsylvania Railroad was granted to—well, maybe there is somebody here that can correct me if I am wrong—

Doctor BOLARD (interposing). W. N. Y. & P.

Mr. HARRISON. Or the W. N. Y. & P, which was the Western New York and—

Doctor BOLARD (interposing). The old Olean Railroad.

Mr. HARRISON. It is now owned by the Pennsylvania Railroad Co. And on the Cattaraugus Reservation there is the Lake Shore and the Nickel Plate; that is, the New York, St. Louis & Cincinnati, is it—New York, Chicago & St. Louis; and the Pennsylvania; and the Buffalo & Lake Erie Traction Co., is that the name of that? The Lake Shore & Michigan Southern is owned by the New York Central.

Senator WHEELER. Are there any street-car lines?

Mr. HARRISON. There is this Buffalo & Lake Erie—Buffalo and something like it—but that has been abandoned.

Senator WHEELER. What do they pay, if anything?

Mr. HARRISON. They pay nothing into the office for their right of way.

Senator WHEELER. When did they acquire their right of way?

Mr. HARRISON. Why, 20 years ago, or is it more, that the street car came in there? It is more than 20 years ago—the street-car line into Olean—about 20 or 25 years ago.

Senator WHEELER. What do most of these Indians do for a livelihood up here?

Mr. HARRISON. Some work their lands, some work on the railroads, some work for the white farmers adjoining, and some work for the gas company. They have various lines of employment.

Senator WHEELER. Most all of them work, do they, when they can get work?

Mr. HARRISON. Yes.

Senator WHEELER. They are pretty good workers, are they?

Mr. HARRISON. They are usually accounted very good workers by the employers.

Senator WHEELER. Do the children go to the public schools here?

Mr. HARRISON. They attend the schools on the reservation; that is, district schools maintained by the State.

Senator WHEELER. Don't you have a public school in your city here?

Mr. HARRISON. Yes.

Senator WHEELER. That is maintained by the city or county?

Mr. HARRISON. Yes.

Senator WHEELER. Are the Indians permitted to go to them?

Mr. HARRISON. Yes; without payment of tuition.

The CHAIRMAN. Does that include the local high school here?

Mr. HARRISON. Yes; I think they can go on through high school without paying tuition. The high school adjoins the Cattaraugus Reservation. The same situation prevails over at Akron, just adjoining the Tonawanda Reservation. There are not very many of the full blooded attending the high schools.

Senator WHEELER. From looking at them here I would think they are mostly half or quarter blood.

Mr. HARRISON. I guess your impression is right.

ROY JIMERSON. Mr. Chairman, the Indian children can attend the public schools, but at Gowanda the parents have to pay their tuition in the public schools; and in the high school I guess the State furnishes the tuition. In the public schools they have to pay it.

Senator WHEELER. How are the expenses of your office taken care of?

Mr. HARRISON. By the Department of the Interior.

Senator WHEELER. Do they pay it out of the tribal funds?

Mr. HARRISON. No.

Senator WHEELER. They just pay that straight out of the Treasury of the United States?

Mr. HARRISON. Yes.

Senator WHEELER. What is the total amount of your expenses?

Mr. HARRISON. I couldn't give you that now.

Senator WHEELER. You have two young ladies working in the office for you?

Mr. HARRISON. Yes; one regular, and the other is extra help.

Senator WHEELER. What is the salary of the superintendent?

Mr. HARRISON. \$1,620 per year.

Senator WHEELER. What is the salary of the young lady?

Mr. HARRISON. The regular one gets \$1,260. The other gets \$3.25 per day when she works.

Senator WHEELER. Are you permitted to engage in other work outside of the duties of special agent in charge here?

Mr. HARRISON. Work outside?

Senator WHEELER. Yes. I understand you are a lawyer, are you?

Mr. HARRISON. Yes.

Senator WHEELER. I am not asking that in a disparaging way because I happen to be one myself.

Mr. HARRISON. No; I understand that. I am permitted to do some outside work. I don't have to spend all of my time at this; I couldn't very well afford to do that.

Senator WHEELER. No; you couldn't and live very well.

Mr. HARRISON. There are no perquisites here, whatever, except that the office is here in the Federal Building and we pay no rent, but there are no quarters for anybody and no automobile is furnished.

The CHAIRMAN. Do you have travel expenses?

Mr. HARRISON. I have travel expenses.

The CHAIRMAN. How much does that amount to annually?

Mr. HARRISON. Oh, probably \$150 or \$200 a year.

The CHAIRMAN. Is there a fixed amount, or do you put in your bill for it?

Mr. HARRISON. Well, the appropriation is made for a certain amount which I can't exceed without authority.

The CHAIRMAN. Mr. Watt, you stated that you weren't one of the regular chiefs. How are the regular chiefs selected here among the Seneca Indians?

Mr. WATT. They are elected by the clan.

The CHAIRMAN. Elected by the clan. Explain what you mean by that.

Mr. WATT. They have the clan system. There are eight clans.

The CHAIRMAN. Among the Senecas?

Mr. WATT. Among the Senecas; and there are four on each side of the house, you see. The four clans here do not intermarry, which is their general rule, and they have to go over to the other four clans to select their mates; and these clans, or clan mothers appoint the chiefs, that is, the oldest woman in the clan appoints him. Of course, these clans all follow their mother's side, it doesn't make any difference what the father might be—he might be a Japanese, but so long as he has an Indian mother the children are legitimate Senecas, and they share in all the usual privileges. So they select some one of the clan whom you might say is "a good Indian" of the clan, as their chief. There might be 25 in that clan, and they select one of them as chief.

The CHAIRMAN. By whom is he selected; by the clan itself, or by the clan mother, you say?

Mr. WATT. Yes; by the clan mother. Of course, they all have to agree.

The CHAIRMAN. But the selection is made by the clan mother?

Mr. WATT. Yes. And then they are confirmed by the Six Nations chief, and the head chief of the Six Nations.

Mr. HARRISON. But you have to have a condolence meeting of your clan, don't you?

Mr. WATT. Yes, they have a condolence ceremony, where they are lectured by the chiefs; admonished to be good.

Senator WHEELER. Do they always follow the admonition that they get?

Mr. WATT. Well, some of them do, but when they see that the chief himself is not living up to the requirements as to his character it is different.

The CHAIRMAN. What is the term of office of these regular chiefs?

Mr. WATT. It is supposed to be for life. That is, it is for as long as he is of—

Senator WHEELER interposing. Good behavior.

Mr. WATT. Yes.

The CHAIRMAN. And if the chief dies or resigns, a new meeting is held and a new chief selected?

Mr. WATT. A new meeting is held and a new chief is selected.

The CHAIRMAN. I understood you to say that you were a chief of some kind here. How did you get your title of "chief"?

Mr. WATT. I haven't been through the condolence ceremony yet, but I have been appointed by my clan mother and I have been elected, and it holds good until a condolence ceremony is held.

The CHAIRMAN. What clan do you belong to?

Mr. WATT. I don't just understand, but I think I belong to the Heron clan.

Senator WHEELER. That is a fish clan?

Mr. WATT. Long-legged bird.

Senator WHEELER. Will you tell us what the situation is out here with reference to the gypsum mines?

Mr. HARRISON. Those mines are leased by the attorney for the Tonawanda Nation, appointed under the provisions of the State law, and the proceeds are paid to the attorney, from which he pays out whatever expense there might be, as provided by this law, and the net proceeds, the law provides, are to be paid to the Federal agent to be distributed per capita among the Tonawanda Indians.

Senator WHEELER. I understand there has been some litigation over there with reference to that, by reason of the fact that some one of the women claims that she owns the land in fee, practically.

Mr. HARRISON. She claims that she is entitled to the proceeds from the mine, as I understand it. That litigation is still pending.

Senator WHEELER. Now, by reason of the fact that you have these apparent conflicts between the State government and the Government of the United States as to the jurisdiction over these Indians, what is your idea with reference to what, if anything, should be done to clear up the situation one way or the other?

Mr. HARRISON. It seems to me that either the Federal Government or the State should have jurisdiction without this dual situation existing which causes a great deal of confusion and trouble. As it is, we have legislation and we have court decisions always—

Senator WHEELER (interposing). Conflicting.

Mr. HARRISON. Conflicting; yes. You can find a court decision to hold for almost anything you want.

Senator WHEELER. And by reason of that fact it seems quite apparent that the Indians' rights have not been as fully protected as if either one or the other had full responsibility.

Mr. HARRISON. That might be the result of it.

Senator WHEELER. I mean, there is the passing of the buck between the State and the Department at Washington.

Mr. HARRISON. That happens sometimes.

Senator WHEELER. Yes. From your observation of the situation, which would you think would be the better plan for the protection of the Indians, to have Congress turn the matter entirely over to the State, or vice versa?

Mr. HARRISON. I don't know.

Senator WHEELER. Haven't you given the matter any thought? If you, the superintendent up here, the special agent, don't know who do you expect would know?

Mr. HARRISON. Well, I think either way finally would perhaps work out satisfactorily.

The CHAIRMAN. And be an improvement over the present situation, you mean?

Mr. HARRISON. Oh, yes; there is no question about that. Either one, if there wasn't any interference or commingling of authority between the State and Federal Government, so that the jurisdiction or authority would be exclusive, would be better. I don't think there is very much choice between them.

Senator WHEELER. The State of New York has taken very much more interest in the welfare of the Indians in the way of enacting legislation than most other States.

Mr. HARRISON. I am not familiar with what the other States have done. The State of New York has maintained these schools on the reservations in this State for probably 100 years. I don't know when they first did begin. This Thomas School, when was that established, John: about 1840?

Dr. JOHN W. LE SEUR. About 1854. It has been improved from time to time and maintained by the State.

Senator WHEELER. You are here as the representative of Senator Copeland?

Doctor LE SEUR. Yes. This Friends' school down here was established in 1798. That is maintained by voluntary contributions of the Friends around Philadelphia. The State for the last 20 or 25 years, perhaps 30 years, has been maintaining the highways on the reservations, and whatever health work has been done outside of the one physician on the reservation. There is one contract physician on the Cattaraugus Reservation who is paid \$600 a year by the Federal Government. Outside of that, all the health work that has been done, all the sanitary work that has been done on the reservations, and all things done to increase their efficiency in farming and that sort of thing, has been done by the State, either through its college extension work or otherwise.

Senator WHEELER. Of course, the State has received taxes from the railroad companies on account of their property going across the reservation. The State taxes all of this property?

Doctor LE SEUR. Oh, yes.

Mr. WATT. Mr. Chairman, in regard to the improvement of the highways, I have observed that it was of necessity that they did put in concrete roads on the reservation by reason of these neighboring towns here, close by. The whites have to cross the reservation and they didn't want to cross over muddy roads.

Mr. HARRISON. The State maintains your dirt roads, too.

Mr. WATT. I don't know much about that. As I see it, we live way out, where very few white men go. I don't believe the State would spend a penny in laying out a good State highway for us.

Doctor LE SEUR. Let me ask you, hasn't the State built and hasn't the State maintained this concrete road from the State line down through this region; down to Quaker Springs?

Mr. WATT. I think so.

Doctor LE SEUR. Isn't it a pretty good road most of the time?

Mr. WATT. Yes.

Doctor LE SEUR. Did the State maintain this highway outside of Gowanda down through Irving?

Mr. WATT. You mean this dirt road?

Doctor LE SEUR. Yes.

Mr. WATT. Yes.

Doctor LE SEUR. Doesn't the State maintain the plank road up around to Brabdt?

Mr. WATT. I don't know much about that.

Doctor LE SEUR. All the work done on the dirt roads was practically done by the State?

Mr. VREELAND. May I correct that statement?

Senator WHEELER. Yes.

Mr. VREELAND. Most of the farmers living off the reservation here maintain trucks to work on the reservation, and that is why

these improved roads are on our reservation. It isn't for the benefit of the Indians, it is for the benefit of the white men.

Senator WHEELER. I want to say that it is apparent that the State of New York does more for the Indians on this reservation than most of the other States have done for the Indians.

The CHAIRMAN. Is there any further statement you want to make?

Mr. GRORUD. Will you tell the committee about the Oil Spring deal?

Mr. WATT. It has been the custom, it might be the general rule, that the councillors go ahead and lease a parcel of land for a certain consideration, and, of course, in almost all of these leases there is stated so much money which is to be paid, but outside of that we don't know how much is to be paid.

Senator WHEELER. I don't understand what you mean.

Mr. WATT. Well, the Oil Springs—of course, this is just hearsay.

Senator WHEELER. Well, what is the Oil Springs? Where is the Oil Springs?

Mr. WATT. The Oil Springs is up near Cayuga, N. Y.

Senator WHEELER. That belongs to the Seneca Tribe?

Mr. WATT. It belongs to the Seneca Tribe; yes. We have a natural oil spring there, where oil was first discovered in North America. Here a few years ago a good many people came from Oklahoma and those oil States to celebrate the one-hundredth anniversary of the discovery of oil. They met up here at Oil Spring and got a lot of Indians over there to take part in the celebration. The Indians gave a war dance and one thing and another. I wasn't there. This Oil Producers' Association had negotiated with the leaders of the tribe to buy this historical spot. Of course this thing had swampy land and there was a creek going up there. It was not valuable land outside of the springs; just a historical spot. The oil producers wanted to acquire this and maintain it, that is, permanently, and keep it up as a park. They didn't want a lease on it, they wanted to buy it. Of course, we all understand here that we can't sell 1 foot of land to a white man. The council, however, appointed a committee to go up and make out a lease, and they went up there for the Seneca Nation to execute this lease, and, as I understand it, they had the lease made out and showed it to the head man of this Oil Producers' Association, and when he read the lease he said, "We don't want that, we want a deed"; and, of course, the Seneca Nation itself couldn't make out a deed. So they said, "We couldn't take up this lease, but we are willing to buy it." They were made to understand that the Seneca Nation couldn't sell the land, and that was all there was to it, and the committee came home. The president of the Seneca Nation, W. C. Hoag, was sick at the time, and shortly after that he died and there was a new man put in his place for the expiration of the term. This new man and the clerk of the nation went up there and executed a quitclaim deed, and the deed provided that they were to be paid \$500 for the lot of land.

The CHAIRMAN. Where did they get authority to make this quitclaim deed?

Mr. WATT. I don't know. As I understand it, from the councillors. Some of the councillors are here. I think all those that went up there as a committee are here.

The CHAIRMAN. Is it your opinion that they did not have authority to make that quitclaim deed?

Mr. WATT. They didn't have authority even from their council to make a quitclaim deed.

Senator WHEELER. A bill authorizing the sale of this Oil Springs by the Indians was passed in April, 1928.

Mr. WATT. Yes. These Indians on the reservation do not know what is going on in the council or outside. The first thing they knew of it was when it was written up in the press, "Seneca Nation quitclaim deed executed," and the bill being passed through the Senate.

The CHAIRMAN. Did you make any protest, or was there any protest made to the Indian Bureau against the sale of this land?

Mr. WATT. Yes. I went down there and I tried to play fair with the people. Of course, I am not an attorney or a lawyer or anything; I am just common sense. I tried to do the best I could. I went down and tried to tell these people just what was going on. Then we had meetings after that and the people appointed me to make out a protest, and I made out a protest in plain words. I know, and I was satisfied, and I put it up to the people, and the people were satisfied, that that was all right. I was appointed to gather names and signatures, and then I was appointed to go down and present it to the House of Representatives.

The CHAIRMAN. How many signatures did you have to your protest?

Mr. WATT. I don't remember; over 100, anyway.

The CHAIRMAN. In what proportion was that to the number of the whole nation?

Mr. WATT. Very small. Of course, we have no press to notify the people of anything that way, but we have a custom of notifying the people, like this: We tell one, and he tells another, and it gets around in that way among the people.

The CHAIRMAN. You say you went to Washington and took it up with the House of Representatives?

Mr. WATT. Well, I was too late when I got there, so I went over to the Senate committee, and the bill had already passed. First, they appointed me a committee to obtain a copy of this instrument, and to interpret it before the people. I came to Major Harrison and asked him for a copy, and he didn't have it. I inquired around where I could get a copy of this instrument. Well, it ran along for some time. I ran across Major Harrison again, and I asked for a copy so that I could present it before the people. "Well," he says, "I am too busy to make out a copy, and the girl is too busy to make out a copy." I says, "Well, give it to me and I will make out a copy, and I will give it back to you." "Well," he says, "I can't do that. I will give you the address of a man that handled it, a man in Cayuga. So I wrote a letter to this man in Cayuga. He is an attorney—Keller. I think, his name is—and in 10 days, I think—it doesn't take the train over two days to go over there and back—I got a reply from Mr. Keller, advising that the instrument had already been sent to Washington for approval, and that that was the only copy that they had, and that as soon as it came back from Washington he would give it to me, that is, give me a copy. Well,

I didn't want it then. So I sent a telegram to Senator Frazier asking for the number of the bill. Now, before this bill was sent to Congress it had already been sent up to the Secretary of the Interior.

The CHAIRMAN. As I understand it, the bill was recommended by the Interior Department.

Senator WHEELER. Yes. It was introduced by Congressman Reed.

The CHAIRMAN. From this State?

Senator WHEELER. Yes. Then Congressman Leavitt, chairman of the House Committee on Indian Affairs, apparently asked for a report on it, and the Secretary of the Interior approved of it, recommended its passage on April 7, 1928, and it became a law on May 22, 1928. It was amended in the House by Congressman LaGuardia. He added a proviso to the effect "That the purpose for which this land is hereby conveyed shall be for the preserving of the spring as a historical monument only, and title to said land shall revert to the Seneca Nation of Indians if said land is ever placed to any other use."

Mr. WATT. Wasn't it approved by the Secretary of the Interior?

Senator WHEELER. Oh, yes; it was approved by him and recommended for passage.

Mr. WATT. But the Secretary of the Interior rather doubted its approval and thereafter it had to be sent to Congress for approval. It was not for the Secretary of the Interior to O. K. it.

The CHAIRMAN. When the bill was introduced in the House it was sent by the chairman of the House Committee on Indian Affairs to the Secretary of the Interior for approval or disapproval.

Mr. WATT. Yes.

The CHAIRMAN. And he approved of it for passage by the Congress.

Mr. WATT. Yes.

The CHAIRMAN. And it was also approved by the Commissioner of Indian Affairs at that time.

Mr. WATT. I see.

Senator WHEELER. What became of the \$500?

Mr. WATT. The \$500. I don't know; maybe Mr. Harrison knows about that. Do you know anything about that, Mr. Harrison?

Mr. HARRISON. I don't know. The \$500, I suppose was paid to the treasurer of the Nation, if it was ever paid. Mr. Walter Kennedy ought to know, he was the clerk at that time.

Senator WHEELER. Well, what about it, Kennedy?

WALTER KENNEDY. It was paid to the Seneca Nation.

The CHAIRMAN. To the treasurer of the Seneca Nation?

WALTER KENNEDY. Theodore A. Gordon was the treasurer of the Seneca Nation.

Senator WHEELER. Is he here?

Mr. WATT. I don't know.

Mr. HARRISON. I don't think so.

Senator WHEELER. Do you know what was done with it after it was paid to him?

Mr. WATT. The president of the Seneca Nation at the time wanted to hold a special session of the council, and I advised him not to hold a special session on account of the lack of funds, and I advised

the council to use this fund of \$500 to pay George T. Dicker for legal services in defending the Seneca Nation against a lawsuit brought by the so-called half breeds in the courts of the State of New York.

Senator WHEELER. Was it paid to him?

Mr. WATT. No, the money wasn't paid right away. After we drew up the papers Mr. Keller sent the papers to Washington for approval, and he said, "When it is approved by the proper authorities in Washington you can pay the \$500." It was some time afterwards before it was approved.

Senator WHEELER. All right; what became of the \$500? That is what I still want to know.

Mr. WATT. Well, after Mr. Keller wrote a letter to me stating that he was ready to pay the \$500, I got Theodore Gordon up there, and he said, "You must pay it to the secretary of the Seneca Nation. I don't handle money. You must pay it to him." After this money was paid over to him then the president of the council called a special session of the council, and used that money to pay the current expenses of the session.

Senator WHEELER. It was used that way—not distributed to the Indians?

Mr. WATT. No. As I understand that, it was Mr. Bennett's word to use the \$500 that was to be paid to Mr. Decker at Rochester, and we held this meeting over on the other reservation on this same subject. On our way back I talked to some of the boys there. I inquired of my uncle, who is in the council now—I asked him if George P. Decker had any money coming from the nation, and he says, "No, he has been paid long ago;" and subsequently George P. Decker sent in a bill to the Seneca Nation, and I think the present council did forward him some money.

Senator WHEELER. Let me ask you this. How would the Indians feel about having Congress pass a law to turn the whole jurisdiction over to the State of New York, rather than have it the way it is now?

Mr. WATT. Well, I had told people about this, had discussed it with them, and they appointed a certain day when all the people should meet at the council house, and I was to fully explain about this turning the Indians over to the State of New York. I wanted to find out their attitude, and they appointed me a committee—I don't know why—they always keep appointing me. I am getting—

Senator WHEELER (interrupting). That is because you are quite patient, may be.

Mr. WATT. Well, may be. They appointed me a committee, and I went over to talk with the president of the Seneca Nation on this subject. "Well," he says, "I will take it up with either Secretary Wilbur or Senator Frazier;" and he expressed an attitude of resentment at the idea of placing the Indians under the jurisdiction of the State.

Senator WHEELER. Who was that?

Mr. WATT. The president of the Seneca Nation. And that was the attitude of the people. The people were going to protest that if there was any move to subject the Indians to the laws of the State, that they would rather be under the Government's jurisdic-

tion, and that is their general attitude, and if you took a vote on it you would find quite a big majority favoring this.

Senator WHEELER. Your property has either got to come under one jurisdiction or the other.

Mr. WATT. Yes.

Senator WHEELER. Now, what are the Indians contending for? Are they contending that they should have a separate nation of their own?

Mr. WATT. Yes; just the same as it always was under the White Father, the big father with whom they had made treaties.

Senator WHEELER. Well, they would want to go back approximately 150 years and set up their old national tribes, then?

Mr. WATT. Well, that wouldn't be necessary, because that still exists now.

Senator WHEELER. Of course, what I want to do is to get your ideas about it, as to whether or not it is your idea of putting it back under the old nation, as a separate nation. You might just as well make up your minds and decide whether or not you would like to have the matter come under the jurisdiction of Congress, or under the jurisdiction of the State, or whether you would want Congress simply to release all jurisdiction over your affairs.

Mr. WATT. Well, I think you will find most of the people favoring having the Indians under the Federal laws—that is, under Congressional jurisdiction.

Senator WHEELER. Most of the Indians up here are pretty well educated, aren't they?

Mr. WATT. Yes; I don't think you will find very many Indians that are not.

Senator WHEELER. Are they pretty well capable of taking care of their own property?

Mr. WATT. Well, some are—some wouldn't be.

Senator WHEELER. You still feel that the tribal lands ought to be held in trust for the Indians?

Mr. WATT. I think so; yes.

Senator WHEELER. That they shouldn't be turned over in fee simple?

Mr. WATT. I think that they should be held in trust.

Senator WHEELER. While they are held by the tribe they can't sell them, according to the Secretary of the Interior, unless they come to Congress for a law.

Mr. WATT. That is it.

Senator WHEELER. Or have these secretaries' approval. The Government of the United States then has a certain kind of wardship over the Indians?

Mr. WATT. Yes; sure.

Senator WHEELER. Now, what the Indians want to have done is to do away with that—to have the Government abolish that entirely.

Mr. WATT. I don't believe you will find, if it came to a vote, that they would have that abolished.

Senator WHEELER. I think that is all, unless Doctor Le Seur wants to ask some questions.

Doctor LE SEUR. No, I think not.

Mr. WATT. There are several reasons why the Indians are afraid to come under the laws of the State.

Senator WHEELER. What are the reasons?

Mr. WATT. One is, whether the State would treat them fairly.

Senator WHEELER. They couldn't treat them much worse than the Government has treated a lot of the Indians.

Mr. WATT. Well, of course, the Government hasn't treated us very mean here. Of course, the western Indians haven't much to say. You might say we are practically our own boss—we have free intercourse with the State and the outside world.

Senator WHEELER. Do you vote up here?

Mr. WATT. No.

The CHAIRMAN. Why not?

Mr. WATT. Well—

Senator WHEELER (interposing). You have the right to vote.

Mr. WATT. Yes; we have the right to vote—you mean in the white government?

Senator WHEELER. Yes. Your people up here on this and every other reservation now are part of the people of the United States.

The CHAIRMAN. They are citizens now.

Senator WHEELER. They are citizens; yes.

Mr. WATT. But I have to put my John Doe down before I go into that party.

Senator WHEELER. No; you just go down and register, the same as any other white man registers.

Mr. WATT. That is all?

Senator WHEELER. Why, of course. Just go down here the same as any other citizen of the United States does, and register. If you do that you are entitled to vote as a citizen of the United States.

Mr. WATT. Then I would be a citizen of the United States and of the Seneca Nation?

Senator WHEELER. Exactly. You would be a citizen of your so-called Seneca Nation, and you would also be a citizen of the United States.

The CHAIRMAN. Don't any of you Indians vote?

Mr. WATT. Very few.

Senator WHEELER. There is no reason in the world why you Indians shouldn't take part in your Government. You ought to assume party responsibilities and help elect people to local offices and help to elect people to the national offices. If you did that, you would probably have more influence in getting the kind of laws that you felt you wanted.

Mr. WATT. Yes; so far as the State laws are concerned. I see lots of white people that never registered at all in this last election.

Senator WHEELER. They are not very good citizens when they do not vote.

ROY JIMERSON. The attitude of some of the white people seems to be to get the Indians to vote because they are not taxpayers.

The CHAIRMAN. I understand that Mr. Robert M. Codd, jr., an attorney of Buffalo, is here and that he has had some experience with the Indians here, have you, Mr. Codd?

Mr. Codd. Yes, Mr. Chairman.

STATEMENT OF ROBERT M. CODD, JR., ATTORNEY, BUFFALO, N. Y.

The CHAIRMAN. Please state your full name to the reporter.

Mr. CODD. Robert M. Codd, jr.

The CHAIRMAN. What is your profession?

Mr. CODD. Attorney.

The CHAIRMAN. Have you any official connection with the State?

Mr. CODD. I represent the Six Nations' Council, that is the council of the entire Six Nations. They are located in Grand River, Ontario. For them I took up the border question, and had to do with the Indians throughout the State here in connection with that work, and I have handled a great deal of litigation for them.

I am a little amused at the statement here that there is a question as to the jurisdiction. There is no question as to jurisdiction.

Senator WHEELER. Where do you think the jurisdiction rests?

Mr. CODD. It rests in the United States Government. Under the treaty of Canandaigua of November 11, 1794, it rests with the United States Government, and the courts of the State of New York from top to bottom have so held.

Senator WHEELER. I understood the superintendent to say there was a question about it.

Mr. CODD. The State of New York has passed laws. The courts of the State of New York have sometimes held adversely to that contention. The court of appeals has so decided, that they have nothing to do with it. In *Hastings v. Farmer* (4 N. Y. 293) it is held by the court of appeals that the State of New York has no jurisdiction.

In the case of *Patterson v. Seneca Nation of Indians*, the Indian law that descent comes through the mother, the woman, instead of the man, the father, is upheld. The children of an Indian man who married a white woman are not Indians according to the Indian law, and the court of appeals has upheld that contention. In that case the children of the white woman tried to obtain an order of the court to compel the Seneca Council to enroll them on the Seneca rolls, and the court of appeals said there was nothing doing.

Senator WHEELER. What did the court of appeals have to do with it in New York if the State Government had no authority or jurisdiction?

Mr. CODD. It enunciated that principle.

Senator WHEELER. It said it had authority?

Mr. CODD. That it had no authority so to act.

Senator WHEELER. If these Indians were under the jurisdiction of the United States Government the same as the other Indians are in the United States—

Mr. CODD (interrupting). They are not.

Senator WHEELER. I say, if they were.

Mr. CODD. Oh, I beg pardon.

Senator WHEELER. Of course, the Government, through the Secretary of the Interior, would make up the rolls or say who was entitled to be enrolled thereon. Your contention is that under the old treaties, as a matter of fact, these Indians are considered a distinct nation by themselves?

Mr. CODD. They were the people who were dealing with the English originally, later with the United States Government. There are very few Indian tribes in that position.

The CHAIRMAN. Didn't they have a treaty with the original colonies in New York here?

Senator WHEELER. Yes; they did.

The CHAIRMAN. Before the Revolutionary War?

Senator WHEELER. Yes.

Mr. CODD. When the State of New York became a part of the United States Government those things all fell by the wayside. What those treaties were I don't know.

Senator WHEELER. Of course they had a treaty with the State of New York before the State of New York became a part of the Government of the United States.

Mr. CODD. They had some agreements, you might call them treaties.

Senator WHEELER. I understand. Haven't the Indians, as a matter of fact, claimed that by reason of the fact that they had this treaty with the State of New York that certain rights and obligations accrue out of that treaty, and that their dealings were with the State of New York?

Mr. CODD. I don't know of any Indians who have such an opinion. There may be some, but I think they would be in a distinct minority among the Six Nations.

Senator WHEELER. What is your idea of the status of these Indians and what do you think ought to be done with them, so far as Congress is concerned?

Mr. CODD. I would like to say first that I was for about two years going and coming on these reservations here.

Senator WHEELER. We don't care anything about that. We will take that for granted.

Mr. CODD. All right. Thank you. I think the State of New York has no business seeking jurisdiction over these Indians. I think Congress should live up to the treaty of Canandaigua and leave the Indians as they are. The question of jurisdiction is very distinctly settled. I have enunciated that principal at least 50 times.

Senator WHEELER. You think these Indians should be a separate nation within the United States Government?

Mr. CODD. They should be quasi independent.

Senator WHEELER. That is perfectly absurd. The people of this country will not tolerate any such thing as that, and anybody who advises these Indians to the effect that they should have a separate nation within the Nation of the United States is, in my judgment, advising them very poorly and wrongly for their own good.

Mr. CODD. I am merely adhering to the decisions of the courts in that connection.

The CHAIRMAN. The Federal Courts have held that this Canandaigua treaty you are speaking of is binding, have they not?

Mr. CODD. Yes. Judge Plummer in a very long opinion said that where Congress saw fit to act Congress was supreme.

Senator WHEELER. There isn't any question about that under our Constitution, in my judgment.

Mr. CODD. And I will say this—you talk about my advising them wrongly—

Senator WHEELER (interrupting). I said anyone who advised them wrongly.

Mr. CODD. I don't wish to be understood as advising them wrongly, Senator. I wanted to say that where the United States acted through Congress, it was all right, but where they didn't the State of New York couldn't step right in and take the place of the Government. What have the Indians got their councils for? Why have they got their separate agent who distributes their money, and so on? Because they are not in law deemed competent to dispose of it?

Senator WHEELER. That is what I want to get at. You think these Indians are not fit to govern themselves?

Mr. CODD. No; I didn't say that.

Senator WHEELER. You say they are not fit to dispose of their lands?

Mr. CODD. Not fit to dispose of their property, certainly.

Senator WHEELER. If they are not fit to dispose of their lands then they are not fit to govern themselves.

Mr. CODD. But why should the United States actually turn them over to the State of New York?

Senator WHEELER. They don't have to turn them over to the State of New York; the Government can just simply release any jurisdiction over them. These Indians have been through school and have some education and they make their leases, and so on. I don't see any reason why the Government of the United States should any longer keep jurisdiction over them.

Mr. CODD. Well, I can only say that under the treaty of Canandaigua the United States Government is obliged morally and legally to do so. The white man was under considerable debt to the Indian at that time. There is no reason why he should shirk his responsibility to-day.

Senator WHEELER. And there is no reason why the Indians should shirk their responsibility by constantly looking to the United States. They are not going to make any progress or improve their condition by doing that. As a matter of fact, I haven't seen a full-blood Indian in this room to-day, and I think I know Indians pretty well. They are all either quarter breeds or half breeds.

Mr. CODD. I don't wish to take issue with you on that, but it is not my opinion. What is the matter with this fellow here [indicating]?

Senator WHEELER. He isn't any more full-blood Indian than I am.

Mr. CODD. Well, there are red Indians and white Indians of course.

Senator WHEELER. I know the red Indians, the white ones, and the pink ones.

Mr. CODD. How about you, Mr. Kennedy?

WALTER KENNEDY. I am an Indian, that is all I know.

Senator WHEELER. He is about a quarter breed.

Mr. CODD. Chief Watt, are you an Indian or are you a white man?

Mr. WATT. My mother says I am a Seneca Indian.

Mr. CODD. Weren't your father and mother Indians?

Mr. WATT. Hah, hah, hah.

Mr. CODD. The Senator wants to know.

Senator WHEELER. Well, that is all right. I don't care to pursue the question.

The CHAIRMAN. The State Legislature of New York frequently passes legislation that affects the Indians here and the Indians' property, as I understand it.

Mr. CODD. It does.

The CHAIRMAN. You think the State of New York has no authority to pass legislation any more than any other State?

Mr. CODD. The State of New York is powerless to control the Six Nations of Indians—the Seneca Nation, or any of these Indians.

Senator WHEELER. The fact of the matter is that they do it.

Mr. CODD. The fact of the matter is that they don't do it, if you will allow me to contradict you.

Senator WHEELER. The fact is that they pass these laws.

Mr. CODD. The fact is that they pass these laws, yes; but I thought you meant that the State is assuming to control them. These acts of the legislature have been ruled out time and again.

Senator WHEELER. You think the Indian wants his status to remain just as it is?

Mr. CODD. I think so. They have better men in Washington than we have in Albany to look after their welfare. I have lived in this State all my life and I know the situation quite well and I would rather see them remain under the men down there who have a higher and more substantial authority to see that the Indians are treated fairly.

The CHAIRMAN. You are attorney for the council of the Six Nations?

Mr. CODD. Yes.

The CHAIRMAN. Was your appointment approved by the Department of the Interior?

Mr. CODD. No.

The CHAIRMAN. You are employed by the council here?

Mr. CODD. From time to time. I got a telegram from Chief Watts last night asking me to come here.

The CHAIRMAN. And you are paid by the council and not by the Government?

Mr. CODD. No, no, not by the Government.

Senator WHEELER. You think the Indians are capable of hiring lawyers, don't you?

Mr. CODD. They came to me with their trouble in connection with this border question, and there was an endeavor to deport the Indians—

Senator WHEELER (interrupting). That isn't what I asked. You think they are capable of making contracts, and of hiring lawyers?

Mr. CODD. I think they selected a very good attorney, naturally.

Senator WHEELER. I thought you would agree that they are capable of doing that.

Mr. CODD. Yes—I don't know whether they did wise in selecting me or not.

Senator WHEELER. You feel that they can go ahead and make contracts with reference to their oil lands, leases, and that they shouldn't be subject to the approval of the Congress of the United States?

Mr. CODD. Oh, no; I think they should be.

Senator WHEELER. They are not being so approved at the present time. They have been making leases here.

Mr. CODD. Those leases are all contrary to law. All of those leases should be submitted to a Washington authority.

Senator WHEELER. But that hasn't been the practice.

Mr. CODD. No; it hasn't been.

Senator WHEELER. Then, is it your contention that the leases that have been made here by these Indians and not approved by the Department of the Interior in Washington are not lawful?

Mr. CODD. That is my contention.

Senator WHEELER. Do you feel that the Government in Washington should cancel all leases made by the Indians under those circumstances?

Mr. CODD. No; I wouldn't say they should cancel them. I should say that the approval or disapproval should be determined by the Government, and that the Government should act for the best interests of the Indians.

Senator WHEELER. Now, whose fault is it that the leases haven't been acted upon by the Government in Washington?

Mr. CODD. The fault of unscrupulous white men who sought these advantages from the Indians and the lack of attention on the part of officials in Washington.

Senator WHEELER. That was what I wanted to find out—whose fault it was.

The CHAIRMAN. Can you tell us briefly about the trouble about the boundary line in the northern part of the State?

Mr. CODD. St. Regis?

The CHAIRMAN. Yes; St. Regis.

Mr. CODD. I don't know anything about that. It was the immigration feature of it that I handled.

(At this stage an informal discussion off the record was had by the witness and Mr. Whipple and former Congressman Vreeland; and thereafter the hearing was resumed as follows:)

Mr. CODD. I understand that, so far as Mr. Vreeland knows—and he is the best informed man in this section of the country, having resided here for 40 or 50 years—there isn't a lease in existence, of the Seneca Nation of Indians in this section of the State, that hasn't been ratified by the Department of the Interior or by act of Congress.

Senator WHEELER. Do I understand that all of these leases, these 99-year leases, have been ratified by the Secretary of the Interior?

Mr. CODD. By act of Congress.

Senator WHEELER. No, no.

Mr. CODD. Congress authorized them.

Senator WHEELER. That is a different thing entirely. Congress authorized the Indians to make the leases, but, in my judgment, before leases of that kind are given out they ought to be approved by the Department of the Interior.

Mr. CODD. How about the treaty of Buffalo Creek?

Mr. WHIPPLE. Congressman Vreeland sits here and he states that all are approved by the Department of the Interior.

Senator WHEELER. My understanding is that they had not been approved. These leases should be O. K'd by the Secretary of the Interior.

The CHAIRMAN. Anything further?

DOCTOR LE SEUR. You are attorney for this Six Nation Council. What do you know about these leases?

MR. CODD. I have not had any of these leases brought to my attention except in this way: Individuals would come in to ascertain what action the council would take on them. I think some of the leases made are perfectly ridiculous. The transcontinental line of the American Telephone & Telegraph Co. goes through this reservation. What did the Indians get for it? They received for the right of way through there \$1,000. That was what they received. And they get \$50 a year. That is for the transcontinental line of the American Telephone & Telegraph Co. If that had been your land, Senator, you wouldn't have let them go through on that basis. And that is very, very advantageous land for them to have.

SENATOR WHEELER. What do they ordinarily pay for going across?

MR. CODD. Well, we had a strip line, power line, 4 or 5 miles east of Buffalo. Of course, the land is a little more valuable there because of its closeness to the city. We had a strip there which was less than a half mile, about the same width, and they paid us \$1,500.

SENATOR WHEELER. What I have not clear in my mind is why a lease, after the council makes it, isn't approved by the agent or the Department of the Interior. Apparently leases are made here and the agent either doesn't know anything about it or doesn't want to know anything about it.

MR. CODD. I think that lease bears the approval of the agent here.

SENATOR WHEELER. I am speaking of these gas and oil leases made by the council.

MR. CODD. I don't know anything about that.

There is another one there for the Southwestern Boulevard, \$5,000 for a couple of miles or so of probably a 150-foot right of way. I should say \$5,000 would be inadequate consideration for that.

SENATOR WHEELER. How about the railroad lines? Have you had occasion to look into railroad rights of way?

MR. CODD. I haven't had occasion to look into railroad rights of way. I was asked to consider the question whether the State or local authorities should collect the taxes. I am working on that now. The question in my mind is why the Indians shouldn't be given a share in the taxes, which is considerable from the railroad properties.

SENATOR WHEELER. Are you employed as general counsel for this tribe, or only on specific cases?

MR. CODD. That is all.

SENATOR WHEELER. As I understand it, the State of New York has appointed some kind of counsel.

MR. CODD. I don't know whether they asked the State to appoint somebody or not. The State of New York is very anxious to secure jurisdiction over these Indians. The State is very interested, as well as the city of Syracuse, in the Onondaga situation. I don't want to discuss that.

SENATOR WHEELER. What I asked you was, have you or anybody for the Indians ever looked into the question of railroad rights of way?

MR. CODD. I don't know of any action ever taken by the Indians on that subject.

Senator WHEELER. I was wondering whether the Indians are being paid anything by them, and, if so, how much they are being paid.

Mr. CODD. I heard that in the old days the railroads gave half rates to the Indians, based on the occupancy of their lands. Those things have been discontinued. I haven't looked into it.

The CHAIRMAN. We will recess one hour for lunch.

(Whereupon, at 1 o'clock p. m., the subcommittee recessed for lunch, and resumed the hearing at the same place at 2 o'clock p. m.)

AFTER RECESS

**STATEMENT OF ADALI WILLIAMS, SECRETARY OF THE COUNCIL,
SENECA NATION OF INDIANS, R. F. D. NO. 1, IRVING, N. Y.**

(The witness was sworn by the chairman.)

The CHAIRMAN. Give your name to the reporter.

Mr. WILLIAMS. Adali Williams.

The CHAIRMAN. You are secretary of the regular council of the Seneca Nation?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. How long have you held that position?

Mr. WILLIAMS. Since last November—1928.

The CHAIRMAN. Just about a year now.

Mr. WILLIAMS. About a year.

The CHAIRMAN. Whereabouts do you live?

Mr. WILLIAMS. Cattaraugus Reservation.

The CHAIRMAN. Do you farm there?

Mr. WILLIAMS. Yes.

The CHAIRMAN. How much land have you?

Mr. WILLIAMS. 18 acres.

The CHAIRMAN. Do you farm it yourself?

Mr. WILLIAMS. I farm it myself.

The CHAIRMAN. What do you raise there?

Mr. WILLIAMS. Potatoes, hay, tomatoes, beans, and so on—small garden truck.

The CHAIRMAN. Truck gardening?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. Do you keep any livestock?

Mr. WILLIAMS. No, not now; only chickens.

The CHAIRMAN. Have you any statement you want to make in regard to the general condition of your people, or any complaint that you want to make to the committee, or suggestions? Just make it as briefly as possible.

Mr. WILLIAMS. I don't believe that I have anything to request.

Senator WHEELER. I will ask him a few questions. You are one of the members of the council, are you?

Mr. WILLIAMS. No.

Senator WHEELER. There are two organizations up here, are there?

Mr. WILLIAMS. One that I know of.

Senator WHEELER. Do you belong to the same group that this other so-called chief belongs to?

Mr. WILLIAMS. No.

Senator WHEELER. You don't belong to that?

Mr. WILLIAMS No.

Senator WHEELER. You are secretary of the Seneca council, are you?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. What does his group belong to?

The CHAIRMAN. The Senator is referring to Mr. Eels who was on the stand this forenoon.

Mr. WILLIAMS. This council is the body that regulates the affairs of the Seneca Nation.

Senator WHEELER. By what authority do you regulate the affairs of the Nation?

Mr. WILLIAMS. Well, certain laws.

Senator WHEELER. Certain laws—where from?

Mr. WILLIAMS. Well, it has been the custom since 1849, hasn't it, when the council government came into existence?

Senator WHEELER. Are these councilors appointed or elected by the people?

Mr. WILLIAMS. Elected.

Senator WHEELER. Appointed or elected?

Mr. WILLIAMS. Elected.

Senator WHEELER. How often are they elected?

Mr. WILLIAMS. Every two years.

Senator WHEELER. For a period of two years?

Mr. WILLIAMS. Yes.

Senator WHEELER. How many are elected?

Mr. WILLIAMS. Sixteen councilors for the Allegany Reservation and the Cattaraugus Reservation.

Senator WHEELER. When do you hold your annual meeting?

Mr. WILLIAMS. We hold our annual meeting the first Tuesday in November.

Senator WHEELER. When you deal with the property of these Indians do you ever consult the Indians about what you do with it, or tell them what to do?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. How do you notify the Indians what action you take?

Mr. WILLIAMS. We haven't had much of that since we have been elected. We have had only the Southwestern Boulevard that was mentioned here this forenoon.

Senator WHEELER. What about the Southwestern Boulevard?

Mr. WILLIAMS. We went with the county appraiser and other individuals—we went to see that everything was satisfactory to the individual owners.

Senator WHEELER. To see that everything was satisfactory to the individual owners. What do you mean by that—that you went to see that they were paid the proper price?

Mr. WILLIAMS. The county appraiser himself requested Mr. Jimerison and I to come along.

Senator WHEELER. How much do you get for acting as secretary?

Mr. WILLIAMS. Two hundred dollars a year.

Senator WHEELER. How much do the councilors themselves get?

Mr. WILLIAMS. They get \$6.25 per day.

The CHAIRMAN. For the actual time devoted to their meetings?

Mr. WILLIAMS. Yes, sir; during their meetings.

Senator WHEELER. What about this Southwestern Boulevard highway, and how are the damages resulting from the encroachment of this highway paid?

Mr. WILLIAMS. By the acre.

Senator WHEELER. How much an acre?

Mr. WILLIAMS. \$150 an acre.

Senator WHEELER. \$150 an acre; that is, if they took an acre of land they paid \$150 for it?

Mr. WILLIAMS. Yes, sir. And they had fencing rights.

Senator WHEELER. That is, if they took an acre of land they paid \$150 an acre for it, and then they put up a fence if they tore down a fence?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. Were the people satisfied with that?

Mr. WILLIAMS. Yes, sir; excepting one man.

Senator WHEELER. What about him?

Mr. WILLIAMS. It was not satisfactory to him, according to the appraiser's figures.

The CHAIRMAN. How did they settle with him?

Mr. WILLIAMS. They haven't settled yet.

The CHAIRMAN. What was done with this money that was collected for this damage on the road? Did that go to the individual Indians?

Mr. WILLIAMS. That went to the individual Indians. We don't handle any of those moneys.

Senator WHEELER. What moneys do you handle?

Mr. WILLIAMS. We handle the money that is paid annually to the council, \$2,500.

Senator WHEELER. What \$2,500? What do you do with that?

Mr. WILLIAMS. That is to maintain the offices.

Senator WHEELER. What offices?

Mr. WILLIAMS. The offices of the Seneca Nation, the salaried officers of the council.

Senator WHEELER. How many salaried officers are there of your council?

Mr. WILLIAMS. Well, there is the president—

Senator WHEELER. How much does he get?

Mr. WILLIAMS. \$200 a year.

Senator WHEELER. Who else gets anything?

Mr. WILLIAMS. The treasurer.

Senator WHEELER. How much does he get?

Mr. WILLIAMS. \$200.

Senator WHEELER. Who else gets anything?

Mr. WILLIAMS. There are some minor officers, such as police officers, assessor, poundmaster; the poundmaster gets \$10 a year.

Senator WHEELER. What does the assessor do?

Mr. WILLIAMS. Well, whenever he is needed to assess any land he assesses it.

Senator WHEELER. What does he get?

Mr. WILLIAMS. \$10 a year.

Senator WHEELER. Who else gets any money?

Mr. WILLIAMS. The police marshal.

Senator WHEELER. How much does he get?

Mr. WILLIAMS. The same—\$10.

Senator WHEELER. Who else gets anything?

Mr. WILLIAMS. The poormaster gets \$10 per year.

Senator WHEELER. Who else?

Mr. WILLIAMS. The highway commissioner.

Senator WHEELER. How much does the highway commissioner get?

Mr. WILLIAMS. \$10 per year.

Senator WHEELER. What does he do?

Mr. WILLIAMS. He looks after some of the roads.

Senator WHEELER. What roads does he look after? I thought the State of New York looked after all these roads up here.

Mr. WILLIAMS. Well, maybe they do, but there was a case down here this spring, I think it was in the spring of this year, where the highway commissioner of this reservation repaired some roads—I think it is a road that is not one of the main roads, but it is a road that is—

Senator WHEELER. Don't you have a city government here and a county government? And you have county authorities?

Mr. WILLIAMS. Sure.

Senator WHEELER. The city government takes care of the city roads, and the county government takes care of the county roads; isn't that true?

Mr. WILLIAMS. Yes.

Senator WHEELER. How many times a year does your council meet?

Mr. WILLIAMS. Well, just the annual meeting, the first of December. But whenever there is any time when they want to call a special council the president calls the council.

Senator WHEELER. When was the last time you met?

Mr. WILLIAMS. That was on October 17.

Senator WHEELER. October 17, what year?

Mr. WILLIAMS. October 17 of this year, 1929.

Senator WHEELER. When did you meet before that?

Mr. WILLIAMS. July 11, I think.

Senator WHEELER. And does it take \$2,500 for the council to run that organization?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. Don't you think that that is taking a lot out of these poor Indians?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. Don't you think that the honor of being elected is compensation enough for the little work that you do? I haven't heard of any other council in the United States being paid.

Mr. WILLIAMS. It has always been the custom.

The CHAIRMAN. This chiefs' council has more authority and does more, possibly, for the Indians.

Senator WHEELER. Who has the custody of the books, records and papers of the council?

Mr. WILLIAMS. I have.

Senator WHEELER. Have you got the old records of the previous administration?

Mr. WILLIAMS. Yes, sir, some of them; they are not all here.

Senator WHEELER. Now, do you hold any meeting calling the tribes together at any time and make a statement to the tribe showing how much money was received, what it is paid out for, and so on?

Mr. WILLIAMS. No.

Senator WHEELER. Why don't you?

Mr. WILLIAMS. I figure that there will be a statement made.

Senator WHEELER. When?

Mr. WILLIAMS. At this annual meeting.

Senator WHEELER. In all the years that you have had this chiefs' council you have never rendered the tribal council any statement as to how much money you have received, and how much money you have paid out, have you?

The CHAIRMAN. He has only held this office one year.

Mr. WILLIAMS. I can't recall that.

Senator WHEELER. You don't know of any such statement being rendered?

Mr. WILLIAMS. No.

Senator WHEELER. There never has been any, to your recollection?

Mr. WILLIAMS. Not to my recollection.

Senator WHEELER. You have never rendered to the tribe any accounting of what you do with the money, or what becomes of it, nor how much you received?

Mr. WILLIAMS. No.

Senator WHEELER. Now, the council made some lease recently, did they, for some oil down here?

Mr. WILLIAMS. Oil and gas.

Senator WHEELER. Oil and gas. To whom did you make that lease?

Mr. WILLIAMS. Henry A. Walters, of Buffalo.

Senator WHEELER. Was that lease approved by the Secretary of the Interior, or by anybody else?

Mr. WILLIAMS. I think it is before him now.

Senator WHEELER. You think it is before him now?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. Did you submit it to the office here? Did you submit it to Mr. HARRISON?

Mr. WILLIAMS. No.

Senator WHEELER. Why not?

Mr. WILLIAMS. I don't know why they don't. I don't believe it has ever been done before.

Senator WHEELER. You don't think it has ever been done before?

Mr. WILLIAMS. No.

The CHAIRMAN. But you did submit your contract direct to the Department of the Interior?

Mr. WILLIAMS. Yes, for its approval.

Senator WHEELER. What did your contract provide for—what royalty?

Mr. WILLIAMS. One-sixth.

Senator WHEELER. One-sixth of what?

Mr. WILLIAMS. Why, that is for the oil.

Senator WHEELER. And how much for the gas?

Mr. WILLIAMS. \$200 per well.

Senator WHEELER. \$200 per well, regardless of how much gas comes out of it?

Mr. WILLIAMS. Well, that was for wells that produce 2,000,000 cubic feet and over; and for wells that produce 3,000,000 cubic feet and over it is \$300.

Senator WHEELER. Don't most of the white men when they lease gas wells charge royalty the same as they do on oil leases?

Mr. WILLIAMS. I don't know anything about that.

Senator WHEELER. This \$500 that was received in payment for the Oil Springs lease—what became of that \$500?

Mr. WILLIAMS. That was before my time.

Senator WHEELER. I know, but you ought to have some record and know what was done with it?

Mr. WILLIAMS. Well, the treasurer ought to have a record of that. I haven't got that record. I may have it, but I haven't looked it up.

The CHAIRMAN. Where did this \$2,500 come from that was used for salaries, and so on?

Mr. WILLIAMS. That was provided according to the Ryan Act, of 1901, I think it was.

The CHAIRMAN. That came from the Department of the Interior?

Mr. WILLIAMS. From the Department of the Interior.

Senator WHEELER. This \$500 that was received was turned over to Theodore Gordon, wasn't it?

Mr. WILLIAMS. So I was informed.

Senator WHEELER. As a matter of fact, didn't they divide that money up among themselves?

Mr. WILLIAMS. I don't know. I can't say as to that.

Senator WHEELER. That is your understanding of it, though, is it?

Mr. WILLIAMS. I was told that; yes.

Senator WHEELER. What do you know about the Erie Railroad right of way over the reservation, if anything?

Mr. WILLIAMS. Erie Railroad?

Senator WHEELER. Yes.

Mr. WILLIAMS. I don't know anything about it.

Senator WHEELER. You made a statement to the effect that the Erie Railroad, among other things, was providing passes for the councilors. You made that statement at some previous time.

Mr. WILLIAMS. Oh, yes; to that effect; I know they have to provide passes for the officers of the Seneca Nation.

Senator WHEELER. Do they do it now?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. Your councilors still get passes on the railroad when you want to go any place on the railroad?

Mr. WILLIAMS. Yes, sir; from here to Lawtons.

The CHAIRMAN. Lawtons is on the reservation here?

Mr. WILLIAMS. I think on the main line here they can go as far as the Erie Railroad goes—that is, providing an application is made according to the agreement of the Seneca Nation and the Erie Railroad.

Dr. LESEUR. Can they go to New York City?

Mr. WILLIAMS. No.

ROY JIMERSON. The Seneca Nation was entitled to passes throughout the whole system, between Salamanca and New York City and

Buffalo—places like that—but here a few years ago the Erie Railroad refused to issue passes to Jersey City or New York City, by order of the Interstate Commerce Commission, and they only issue passes now as far as Binghamton, on account of this Interstate Commerce Commission ruling.

Senator WHEELER. Do you know how much, if anything, is paid by the Erie Railroad outside of giving passes to the councilors?

Mr. WILLIAMS. No, I don't.

Senator WHEELER. Do you know how much money per mile they pay, if anything?

Mr. WILLIAMS. No.

Senator WHEELER. Whether they are paying any rentals or not?

Mr. WILLIAMS. No, I don't know anything about that.

Senator WHEELER. What has the council done, if anything, with reference to bringing suit for these delinquent rentals that you heard mentioned here this morning?

Mr. WILLIAMS. They haven't done anything yet.

Senator WHEELER. Have they employed any lawyer to do anything about it?

Mr. WILLIAMS. They will at this coming annual meeting.

Senator WHEELER. I thought you made the statement that they had already employed Jesse Seymour, an attorney of Salamanca.

Mr. WILLIAMS. Well, they had an understanding with the former treasurer, Mr. Crouse, because he was looking after that with Mr. Seymour at that time, but Mr. Crouse died May 11, and that is as far as I know about that.

Mr. HARRISON. Mr. Seymour is the attorney appointed for the Seneca Nation of Indians by the Welfare Department of the State.

Senator WHEELER. What has he done—anything at all?

Mr. WILLIAMS. I suppose, anything the council has asked him to do—I don't know about that.

Senator WHEELER. What has the attorney that was appointed by the State ever done for the Indians, do you know?

Mr. WILLIAMS. The council?

Senator WHEELER. What has this Mr. Seymour ever done for the council?

Mr. WILLIAMS. Well, I think he has taken care of a lot of cases that arose between the Nation and—I don't know much about the parties.

The CHAIRMAN. Has he handled any cases since you have been in the council?

Mr. WILLIAMS. No.

Senator WHEELER. Has he handled any cases about delinquent leases?

Mr. WILLIAMS. He hasn't done anything about it yet; he is waiting for the council meeting.

Senator WHEELER. Why is he waiting for the council meeting?

Mr. WILLIAMS. To give him authority to sue for those back rentals.

Senator WHEELER. Does the council pay him anything at all?

Mr. WILLIAMS. That I don't know.

Senator WHEELER. Has it paid him anything since you have been there?

Mr. WILLIAMS. No.

Senator WHEELER. Is the State of New York paying him?

Mr. WILLIAMS. I don't know.

Senator WHEELER. Now, the council has been collecting money for hunting licenses. What has become of that money collected?

Mr. WILLIAMS. All that money was paid to the game wardens.

Senator WHEELER. Who pays the game wardens?

Mr. WILLIAMS. The treasurer.

Senator WHEELER. How many game wardens are there?

Mr. WILLIAMS. Five on the Allegany Reservation, and two on the Cattaraugus Reservation.

Senator WHEELER. Doesn't the State of New York have game wardens that they appoint and that they pay?

Mr. WILLIAMS. They don't patrol on the preserves.

Senator WHEELER. They don't patrol on the preserve?

Mr. WILLIAMS. Not on the Cattaraugus Reservation; I don't know about the Allegany Reservation.

Senator WHEELER. How much does he charge for a hunting license?

Mr. WILLIAMS. \$2.20.

Senator WHEELER. Does he ever make an accounting of how much money he has collected from these licenses, at all?

Mr. WILLIAMS. That will be reported in the annual session.

The CHAIRMAN. The annual meeting?

Mr. WILLIAMS. Yes, sir, at the annual meeting, this coming month.

Senator WHEELER. Now, your former treasurer was a man by the name of Gordon?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. And he collected much money on account of hunting licenses?

Mr. WILLIAMS. Yes, sir.

Senator WHEELER. Did he ever render an accounting to the council as to how much money he collected and what he did with it?

Mr. WILLIAMS. At the last annual session he was asked to give a statement about the hunting license money. Mr. Walter Kennedy here, a former clerk, made a written report, and following that we requested Mr. Gordon to make his report; and the only thing that he said was that he left the blanks with responsible parties in different towns nearby the reservation so that they could sell the licenses, and he reported at the meeting that he had not collected from any of these places where he left the blanks. After the meeting the treasurer went around to these places and found that all these places had been collected from; and that is all we know about it.

Senator WHEELER. These different parties had turned that money over to Mr. Gordon?

Mr. WILLIAMS. They said that they had paid Mr. Gordon.

Senator WHEELER. Where does Mr. Gordon live?

Mr. WILLIAMS. Gowanda.

The CHAIRMAN. He isn't here today?

Mr. WILLIAMS. I don't think so.

Senator WHEELER. Who collects the money for these oil leases? Is that paid to the superintendent, or is it paid to the council?

Mr. WILLIAMS. To the superintendent.

Senator WHEELER. Is that royalty, or it is money that is paid when the leases are granted?

Mr. WILLIAMS. It is royalties.

Senator WHEELER. Now, there is money paid when the leases are granted, isn't there?

Mr. WILLIAMS. Yes.

Senator WHEELER. Now, coming to a statement made before the Senate committee, it was stated in effect that one-eighth royalty was paid, besides \$500 a year rental during the life of the lease, whether there was any oil or gas produced or not; and, in addition thereto, \$100 a year for each and every well that was being used. What do you know about that?

Mr. WILLIAMS. Well, I don't know anything about that. My understanding on that is that the agent receives that money. Whether or not he does, I don't know.

Senator WHEELER. What about that, Mr. Harrison?

Mr. HARRISON. I receive the oil royalties and the \$100 per well for the gas wells. This \$500, I assume, is provided in the lease to be paid until such time as the royalties amount to or exceed that. Those are the ordinary terms of the leases. I haven't seen that lease. I understand this operation up here is on a lease granted some 40 years ago. That would be my understanding of the terms of it. That is the way several leases were made.

Senator WHEELER. Well, now, how much is this oil company paying as royalty?

Mr. HARRISON. One-eighth. They pay one-eighth of the oil produced; that is, the refinery which receives the oil.

Senator WHEELER. Who owns the refinery?

Mr. WILLIAMS. The Vacuum Oil Co.

Senator WHEELER. When the oil goes into the vacuum they check it and give you what is supposed to be the one-eighth royalty?

Mr. HARRISON. Yes.

Senator WHEELER. Now, there is a statement here to the effect that John L. Snyder bought a beach for a summer resort. Do you know anything about some property that John L. Snyder leases or bought on which he conducts a summer resort?

Mr. WILLIAMS. I know of the place. I have been there, but I don't know as to the method of his acquiring the land.

Senator WHEELER. What do you know about it, Mr. Harrison?

Mr. HARRISON. Mr Snyder is right here. There is no revenue derived from it through this office.

Senator WHEELER. Where is Mr. Snyder?

Mr. SNYDER. What is the question, again, please?

STATEMENT BY JOHN L. SNYDER, IRVING, N. Y.

Senator WHEELER. You bought some land from the Indians?

Mr. SNYDER. Yes, sir.

Senator WHEELER. How much did you pay for it?

Mr. SNYDER. I don't just remember now.

Senator WHEELER. When did you buy it?

Mr. SNYDER. The first one was about eight years ago; that is, the first piece I bought.

Senator WHEELER. How much did you pay for it?

Mr. SNYDER. I didn't give very much for it.

Senator WHEELER. How much?

Mr. SNYDER. I gave \$50 for it.

Senator WHEELER. How much land was there?

Mr. SNYDER. I don't know—about 12 acres, I guess.

Senator WHEELER. Then you rented some more?

Mr. SNYDER. No; I bought some more.

Senator WHEELER. You bought some more?

Mr. SNYDER. Yes.

Senator WHEELER. Did you get a deed to it?

Mr. SNYDER. Yes.

Senator WHEELER. How did you get a deed to it?

Mr. SNYDER. I got a deed from the parties who owned the property.

Senator WHEELER. Who owned the property?

Mr. SNYDER. Well, the first piece was from Harry Washburn—I may be mistaken as to which piece I bought first; it was either from Harry Washburn or the Dockstadter estate. I bought that at three different times.

Senator WHEELER. You bought it, of course, subject to the Indian tribal occupancy? You just bought the occupancy?

Mr. SNYDER. I just bought the occupancy; yes, sir.

Senator WHEELER. What rental do you pay for the land?

Mr. SNYDER. I don't pay any rent.

Senator WHEELER. Why not?

Mr. SNYDER. I am a Seneca Indian.

Senator WHEELER. It doesn't make any difference whether you are a Seneca Indian or not. I suppose you have to pay rent.

Mr. SNYDER. Their custom is to deed their holdings back and forth.

Senator WHEELER. And they don't pay any rentals at all? You conduct a summer resort up there?

Mr. SNYDER. Yes, sir.

The CHAIRMAN. Is your property taxed by the State authorities?

Mr. SNYDER. No, sir.

The CHAIRMAN. You don't pay any State taxes?

Mr. SNYDER. No, sir.

Senator WHEELER. You are now leasing that to the township of Bryant?

Mr. SNYDER. Yes, sir; part of it.

Senator WHEELER. How much do you get out of it?

Mr. SNYDER. I don't get much out of that because we wanted a park there. I think it was \$300 I got for the first piece.

Senator WHEELER. How long did you lease it for?

Mr. SNYDER. The council approved of it for 40 years.

Senator WHEELER. Do they pay any rent for it?

Mr. SNYDER. No; not that I know of. It is a county proposition, and they were maintaining a park with the Senecas getting free access to it.

Senator WHEELER. Did the Secretary of the Interior approve it?

Mr. SNYDER. It was approved by the council, but the Secretary has not approved of it. They are going to apply for it some time very shortly.

Senator WHEELER. I think that is all.

STATEMENT OF ADALI WILLIAMS—Resumed

The CHAIRMAN. You spoke about having a police marshal. Are crimes and misdemeanors among your people punished by your own police magistrate, or are they punished by county authorities?

Mr. WILLIAMS. Why, by the county authorities.

The CHAIRMAN. What does your position have to do with police marshal?

Mr. WILLIAMS. Mostly in serving papers or any notices.

Senator WHEELER. What papers does he have to serve?

Mr. WILLIAMS. Well, any summons.

Senator WHEELER. For whom?

Mr. WILLIAMS. In the reservation for the peacemakers.

Mr. HARRISON. They have civil jurisdiction.

The CHAIRMAN. Is the law enforced pretty well here on the reservation, or is there a lot of crime committed?

Mr. WILLIAMS. Not much crime committed, to my knowledge.

The CHAIRMAN. How about the prohibition law? Is that enforced?

Mr. WILLIAMS. Well, it is about the same as anywhere else.

The CHAIRMAN. There is some violation of it?

Mr. WILLIAMS. Yes.

Senator WHEELER. The Indians drink about the same amount as the white men, is that it?

Mr. WILLIAMS. I don't know.

Roy JIMERSON. The Indians believe along with the rest of the country, that prohibition is better than no drink at all.

The CHAIRMAN. Is there any further statement you want to make?

Mr. WILLIAMS. No, sir.

STATEMENT OF J. S. WHIPPLE, ALBANY, N. Y.

The CHAIRMAN. Please give your name to the reporter.

Mr. WHIPPLE. J. S. Whipple.

The CHAIRMAN. Where do you reside?

Mr. WHIPPLE. I reside in Albany and vote here.

The CHAIRMAN. You consider this your home, then?

Mr. WHIPPLE. It has been.

Senator WHEELER. Are you a State officer?

Mr. WHIPPLE. Yes, sir.

The CHAIRMAN. What is your official position?

Mr. WHIPPLE. I am a member of the industrial board in the State labor department that hears appeals from referees' decisions.

The CHAIRMAN. You are also a former member of the State legislature?

Mr. WHIPPLE. Yes; I was in the legislature 12 years.

The CHAIRMAN. How long have you made your home here?

Mr. WHIPPLE. Well, longer than any other person living here—since 1857.

The CHAIRMAN. You must be quite familiar with the conditions among the Indians here in this particular locality.

Mr. WHIPPLE. Well, I have lived in this particular vicinity and among the Indians in a sense all my life, since I was 5 years old, and,

of course, I am familiar with the conditions here. And then in 1888 I conducted an investigation, under authority of the legislature, on all of the reservations in the State, an exhaustive investigation, during which time we took probably 45,000 folios of testimony, spent a complete year in the work, and made a report to the State legislature in the winter of 1889, covering the whole subject, especially on this reservation. In that investigation we took up every conceivable question that we thought would be of interest to the Indian, especially land titles, educational conditions—religious, sanitary, birth—everything. We took the testimony of a great many witnesses, and we searched the records of Kings and Queens Counties in New York, and investigated the Indian situation from the beginning of the settlement of this country. And I correlated and embraced in my report in logical order for the first time all of the laws of the State, all of the treaties between the State and the Indians, and the National Government and the Indians, and all of the information in relation to the rights of the Colony of Massachusetts, the grant of the King of England, and the Duke of York under the grant from the King of England, and the settlement of their dispute by a convention held between the delegates of the Colonies of New York and Massachusetts, as a result of which Massachusetts ceded New York the sovereignty, jurisdiction, and control, and New York ceded to Massachusetts the land title, whatever it was, that was obtained through the grant of the King of England to the Colony of Massachusetts, and through the Duke of York. And if I might be permitted, I would declare to this committee from the Senate that one of the very most important things in trying to solve this Indian problem is the question of this title. It is a very important and grave question to these Indians. For the first time we got together a chain of title during that investigation on which the opinion of lawyers, good lawyers, had differed very much about what it was until that report was made. Since then I think there has been little or no dispute among legal men as to that, and the court of appeals of this State has cited that report as authority two or three times in its decisions.

Senator WHEELER. Was that report published?

Mr. WHIPPLE. Oh, yes; 40 years ago. And I distributed 10,000 copies of it. You will find a copy, probably, in the Indian Bureau. A man by the name of Jones was then Indian agent in the Department of the Interior. I think he had a copy, and then under our statute copies were sent to the libraries all over the country. And I think you will find one in the Congressional Library. I see you have a copy here.

Senator WHEELER. What was the title of the report?

Mr. WHIPPLE. It is given on the title page: "Report of Special Committee to Investigate the Indian Problem of the State of New York, appointed by the Assembly of 1888. Transmitted to the legislature February 1, 1889."

Now, if you will permit me, I want to suggest that your idea, Senator, about making the Indians citizens is shared by men of experience who have given this subject the most serious study. It was the opinion advanced by Superintendent Draper, of the Education Department, prior to my starting this investigation. He was

a very able man and afterward became the dean of the University of Illinois. I think there isn't the slightest doubt among men, including most of the sensible Indians, that the best thing for the Indians is to make them citizens and place responsibility upon them and have them become part of the population of this great country. It is best, perhaps the only, way to insure their progress.

I have only two or three minutes to appear before you gentlemen. I wish I had more time. Based largely upon the study I made of this question in my lifelong experience with the Indians and upon my legal knowledge, I think I ought to declare that I haven't the slightest doubt that the so-called Ogden Land Co. absolutely owns the fee to these reservations subject to the right of occupancy of the Indians. And that was the reason that Senator Dawes stated that he became satisfied that it wouldn't do for the Indians to break up their tribal relations here, so that there will be a permanent cloud upon the title of the Ogden people. I haven't the slightest doubt but what the Indians here would exercise their right to vote under the late statute giving them the right if they didn't fear that in some way it might affect their tribal relations, but that fear is there, and that is the reason they don't exercise the right.

Senator WHEELER. But under the statute their tribal rights wouldn't be affected at all.

Mr. WHIPPLE. No. Their rights are protected.

Congressman Vreeland, who is here, put through the House of Representatives twice a bill to purchase the rights of the Ogden Land Co. Congressman Vreeland is here and will probably explain that to you. And I should like to have you examine my report on the question of the claim of the Ogden Land Co. The King of England granted this land to the Colony of Massachusetts, then it was granted to the Duke of York, then that dispute was settled between the two, and Massachusetts held whatever they got from England in relation to title, but we had the Revolutionary War. After that by the treaty with England this Government got everything that England had. But the colonies of New York and Massachusetts are older than the National Government, and they have never ceded anything to the National Government in the way of land, so Massachusetts had the title. Massachusetts sold to Phillips & Gorham this right to all of this country occupied by the Indians, but they failed to pay and ceded it back. Next they sold to Robert Morris all of that right, and Robert Morris proceeded to exterminate the Indians' right of occupancy by purchase, and he did develop a large tract of it. Then he sold to the Dutch company, the Holland Land Co., what he had left, and they proceeded to exterminate the rights of the Indians in large tracts of land. Then they sold to Thomas A. Ogden, and he and his colleagues extinguished certain rights of occupancy to certain pieces of land, and Buffalo stands upon some of that ground, and remember that nobody has ever questioned the title that anyone got as purchaser. Then finally they had a treaty to move all these Indians to Kansas, but that fell through. I have covered that in my report and I should like to have you read it. I regret that I am not able to cover the ground here as my time is limited.

The Tonawandas up here fortunately got their lands by purchase and they own them. and the comptroller of this State holds the deed for them.

Senator WHEELER. Where are the Tonawandas located?

Mr. WHIPPLE. East of Buffalo.

One of the mix ups in this situation was that they kept calling the title by all kinds of names. They called it the "technical fee," the "preemptive right," and several other names. And then they would try to give definitions to those terms, and they never went back to get the chain of title. Nobody ever did it until I did it in this investigation.

In my report you will find every treaty printed in full which was made by the State Government and the National Government with the Indians. When you get into these other reservations you will find that the State dealt with them—the Onondagas, the St. Regis, the Montauks, the Tuscaroras, and the others.

Now, gentlemen, my time is limited, and this is so big a subject that it can't be dealt with in a few minutes, but if I may be permitted to suggest it your great problem is in some way to get rid of this Ogden Land Co.'s claim.

Doctor LE SEUR. Did you find a considerable number of transfers recorded in the Holland land office at Batavia?

Mr. WHIPPLE. Some of them. But they were scattered everywhere. Nobody ever got them together.

Senator WHEELER. What I am interested in, in addition to the Ogden Land Co.'s claim, and I think something ought to be done about it, is the confusion that exists in the Interior Department and perhaps in the State of New York as to who has jurisdiction over these Indians.

Mr. WHIPPLE. I can talk to you just a minute about that if you want me to.

Senator WHEELER. We would be glad to have you.

Mr. WHIPPLE. There isn't any controversy between the State of New York and the National Government. In the earlier years these Indians had always been considered wards of the State. So far as the Indians and Indian property are concerned, whenever the National Government wants to assume jurisdiction, they have got it. Of course, the National Government would have to assume certain things—jurisdiction over criminal matters, and so on—before it ousts the State, but the jurisdiction is with the State where the National Government has not assumed it.

Senator WHEELER. I think the State of New York has done more in the way of looking after the welfare and health and education of its Indians than any other State.

Mr. WHIPPLE. There is a wonderful interest in this State in behalf of the welfare of the Indians. The National Government is all powerful and has got the jurisdiction, and it could settle the whole thing by getting rid of this Ogden Land Co.'s claim.

There might be men in this room who will not agree with me, but I have always held that the preemptive right, as used here in this proposition, was the right to buy the Indians' right of occupancy, whether you call it "technical fee" or any other name. The preemption right is the first right to buy.

Mr. VREELAND. Exclusively, if you want to exercise the right when the fee is given you. You might abandon the right of preemption, but it is an exclusive right in the first instance of the Ogden people to acquire the optional right of the Indians.

Mr. WHIPPLE. In connection with the preemptive right, I want to tell you what the court of appeals said, quoting Judge Cullen in the Seneca Nation of Indians, appellant, v. Charles E. Appleby, respondent (196 N. Y. 320) :

Subsequently the court directed—

That was in a case which involved the title to some extent—

that a verdict be entered as if given by the jury on trial that "the plaintiff has no cause of action and the defendant is the owner in fee of the premises subject to the right of occupancy of the Seneca Nation of Indians, which right of occupancy will cease only with the dissolution of said Nation or its consent to sell to the owner of the right of preemption, and that defendant is possessed of the right of preemption of such right of occupancy."

Now, there is a specific definition of what this preemptive right means here—to buy the right of occupancy. The decision is by the court of appeals.

And if you will take the pains to read the fore part of the decision of the court of appeals in the Seneca Nation of Indians, appellant, v. Harrison B. Christie, respondent (126 N. Y. 122), I think it will be helpful.

In the library of the senate and assembly in Albany you can find two large volumes of evidence in connection with the report I have referred to here. We preserved every word of evidence we took through that year on this subject.

Senator WHEELER. We thank you for your statement Mr. Whipple. I have understood that the Indian Bureau of the Interior Department seems to have some doubt as to whether it had jurisdiction over these New York Indians. I can not conceive how they can question the right if they actually asserted jurisdiction.

Mr. WHIPPLE. Of course, the Government is the powerful thing in this country, not the State.

Senator WHEELER. And in asserting it, they ought to assert it in such a way as to fully protect the Indians' rights in New York.

Mr. WHIPPLE. There are several things I would like to clear up if I had the time.

Mr. VREELAND. In connection with the Department of the Interior, take, for instance, a lease granted outside these authorized villages; if that lease could be approved and made legal by the action of the Secretary of the Interior—

Mr. WHIPPLE (interrupting). It can not be done. You must have an act of Congress for that. These oil leases and gas leases were all approved by the Secretary of the Interior.

The CHAIRMAN. Thank you, Mr. Whipple.

Mr. WHIPPLE. I hope I have been of service. Don't go away without having Mr. Vreeland tell you about this Indian situation. He knows more about it than anybody else I know of.

Senator WHEELER. Thank you.

STATEMENT OF JOHN L. SNYDER, IRVING, N. Y.

The CHAIRMAN. Just give your name to the reporter.

Mr. SNYDER. John L. Snyder. I filed some papers with Mr. Grorud.

Senator WHEELER. Have you filed a brief?

Mr. SNYDER. I have. Only I want to request that it go with the statement of Mr. Whipple. I have feel like requesting this committee to recommend to Congress certain things which I have embodied in those papers. The question of jurisdiction is involved, and the last witness and I differ in some respects as to that.

Senator WHEELER. Wherein do you differ? Just state briefly.

Mr. SNYDER. I claim that the Federal Government can not give back to New York State the right to handle the Indian affairs in the State without an amendment to the Constitution.

Senator WHEELER. I don't think he differed with you as to that.

Mr. SNYDER. If I understand correctly, that seems to be his idea.

Senator WHEELER. You must have misunderstood it.

Mr. SNYDER. If they could do that they could give to the State of New York the right to again sell liquor.

STATEMENT OF WALTER L. KENNEDY, SALAMANCA, N. Y.

(The witness was sworn by the chairman.)

The CHAIRMAN. State your name for the record.

Mr. KENNEDY. Walter L. Kennedy.

Mr. GRORUD. Do you own the possessory right of a sand pit on the Alleghaney Reservation?

Mr. KENNEDY. Yes.

Mr. GRORUD. Have you leased that land to some one?

Mr. KENNEDY. I leased it after the company got a lease from the Seneca Nation.

Mr. GRORUD. When did the company get a lease from the Seneca Nation?

Mr. KENNEDY. About two years ago.

Mr. GRORUD. How was the transaction consummated?

Mr. KENNEDY. Why, these Whitehead Bros. came to the council and made an application for a franchise to extract sand from certain parts of the reservation. They came to the council and the council granted them a lease and ratified it.

Senator WHEELER. Was that lease approved by anybody?

Mr. KENNEDY. Whitehead Bros. took that lease to the Indian Bureau for approval—the Secretary of the Interior. They took it down there and the Indian Bureau wouldn't ratify it, and they drew up a contract of their own.

Senator WHEELER. Who did?

Mr. KENNEDY. The Indian Bureau—in which they raised the price of sand per yard to be paid the Seneca Nation, and the pay to the individual owners, and they told Whitehead Bros. if this was ratified by the council it would be approved by the Interior Department, which I understand was done. A copy of my contract was sent to me direct from the Interior Department.

Mr. GRORUD. How much are the Indians getting from the operation of this lease?

Mr. KENNEDY. I think it is a dollar a carload.

Mr. GRORUD. Who is that paid to?

Mr. KENNEDY. To the special Indian agent.

Mr. GRORUD. Every year, or monthly?

Mr. KENNEDY. It is paid in December every year.

Mr. GRORUD. How much does that amount to?

Mr. KENNEDY. Oh, that all depends upon how much they excavate.

Mr. GRORUD. Who keeps account of it?

Mr. KENNEDY. The railroad company.

Mr. GRORUD. That lease was approved by the Assistant Commissioner of Indian Affairs, E. B. Meritt?

Mr. KENNEDY. E. B. Meritt; that is, my contract was, at least. That is where the contract came from.

Mr. GRORUD. Are you a member of the council?

Mr. KENNEDY. No, sir.

Mr. GRORUD. Have you been a member of the council?

Mr. KENNEDY. Yes, sir.

STATEMENT OF HON. E. B. VREELAND, FORMER MEMBER OF CONGRESS, SALAMANCA, N. Y.

The CHAIRMAN. Just give your name to the reporter, Congressman.

Mr. VREELAND. E. B. Vreeland, of Salamanca, N. Y.

The CHAIRMAN. We would be very glad to have you make a statement. Just make it brief.

Mr. VREELAND. In the short time that I have I could cover but very little of the subject.

Senator WHEELER. Just cover the high lights. We have read the decisions.

Mr. VREELAND. My people came here in 1871 and brought me along, so that I have known something about these Indians, in fact, a good deal about them for pretty nearly a half a century. When we first came here it was quite the custom for the Indians to wear moccasins on coming from their homes on the reservation into town here, and they observed the prevailing Indian customs. After these years, as you gentlemen can see from the considerable number of Indians gathered here to-day, they have greatly improved. They have access to our schools here and the State has provided them with schools. They are intelligent, live in a good farming country, and they go about their business and know pretty well how to manage it.

The affairs of the Seneca Nation of Indians officially are conducted by what they call a "council" of 16 members, eight being elected from the Cattaraugus Reservation and the other eight from the Allegeny Reservation. Away back in 1850, somewhere around there, the State of New York authorized the formation of this council for the conduct of the affairs of the Seneca Nation of Indians, which is, so far as I know, the only body of that kind created by a legislature in the United States.

During all these years that they have had their council they have had two parties—I think they have complimented us by naming them Republicans and Democrats, and their elections are conducted with great zeal and all of the usual trimmings of the white elections. Those that don't get elected are alert and watch those in power and report any deprivations that have been committed by them.

The claim of the Ogden Land Co.—a name we have known here so many years and are so tired of hearing, but which we can not escape hearing, is the reason why these Indians for so many years past haven't had their lands allotted in severalty and become citizens. The sinister shadow of that Ogden Land Co. claim has hung over this land all these years, and we don't dare take any action without first extinguishing that claim. The whites and the Indians are entirely in accord on this and we would be wonderfully pleased if we found that the Ogden Land Co. had no claim.

As I said a moment ago, the State has provided schools, roads, bridges, sanitation for the prevention of diseases, and so on. These Indians have become more capable of looking after their affairs than the great majority of the western Indians that have long since been allotted and made citizens.

Mr. Whipple explained that at the close of the Revolutionary War by treaty of peace with Great Britain all of this great continent, inhabited sparsely by Indians, was turned over to the United States with all the rights of Great Britain, and that therefore the United States held the preemption right to all of that land. The United States has been the guardian of the Indians under that authority and intervenes in New York and passes laws in relation to that. Not because it holds the preemption right, because it never had it in regard to these particular Indians; that preemption right was disposed of before we became the Government of the United States. That preemption right, the technical fee, or the ultimate fee, or whatever the various names are that have been applied to it by the courts or those discussing it, and it doesn't matter what they are, except that it seems to be a matter of no doubt whatever that the Ogden Land Co. through grants from the King of England has had large holdings in the western part of the State and a great many titles have come through the Ogden Land Co. And if they had no such claim the title to those lots in cities in western New York wouldn't be good.

Now, from the decisions of the courts, and under the laws of nations which gave the sovereignty, the ultimate fee to this land is in the Ogden Land Co., which has the first right to purchase, the preemption right, to these lands.

Let me illustrate it this way: In the western reservations, the right of preemption is in the United States, it having been ceded to the United States by Great Britain in the treaty of peace after the Revolutionary War. There the right of preemption is in the United States.

Let us suppose that on one of these western reservations every Indian should have died overnight. Where would the title to the property be? Could it be anywhere than in the United States Government? The right of occupancy in that case would have been extinguished by the death of all the Indians concerned; therefore, where else could the title go except to the United State Government which had the preemption title?

Now, let us suppose a similar case. Let us suppose that all our 2,300 good friends here among the Indians should all die to-night; where would the title go except to the Ogden Land Co. which had the preemption right? The decisions of the United States Supreme

Court, in quite a number of cases which I once was familiar with but haven't looked over for many years, intimate, perhaps as a matter of obiter dicta, that the right of occupancy is a tribal right.

Senator WHEELER. You mean with reference to this reservation?

Mr. VREELAND. With reference to western reservations or any other reservation where the right of preemption exists, that the right of occupancy, conceded by international law by Great Britain, and transferred to the United States, is a tribal right; and that if the tribe becomes obliterated or moves away and abandons it, then the title goes to the people holding the ultimate free or right of redemption. Hence, the committee will see why, during all these years of dealing with this reservation, we have been afraid that the rights of the people who have property and live upon it might be jeopardized if we were to do anything which would bring the Ogden Land Co. to life.

Senator WHEELER. Who is there now surviving with interest in the Ogden Land Co.?

Mr. VREELAND. In the book Mr. Whipple referred to they collected together the names of the owners of shares of the Ogden Land Co. It was not a corporation—just an association. The Wadsworth estate owned $1\frac{1}{2}$ shares; the Bank of England a couple of shares; and the wealthy Schermerhorn family of Brooklyn owned some shares.

Senator WHEELER. Did you ever give any thought to the question of having the Indians bring suit against the Ogden Land Co. to quiet title?

Mr. VREELAND. I was going to say to you, if I had time, that along about 1894 I twice passed through the House of Representatives a bill for allotment of these lands under the same restriction as the Dawes Act imposes, for the capitalization of the rents on a percentage which would bring the Indians perpetually the same amount of money they were receiving; and, at the same time, you must remember, of course, that it was something over 80 years before the leases would run out, and we always had to take into consideration that the white people didn't have to capitalize the rents if they didn't want to. It was a bill which received a great deal of study and attention by the—what is the name of that association that started in Washington in Grant's time?

Senator WHEELER. The Indian Rights Association.

Mr. VREELAND. Merrill Edward Gates, former president of Amherst College, was the head man. They gave it a great deal of attention. It was taken up and was perfected, as far as it was possible for anybody to perfect it.

The second time that bill was passed through the House it was our old friend Senator Quay, who claimed to have a little blood in his veins, and who was on the Indian Affairs Committee of the Senate, who blocked it all the way through. He finally became converted to it and was willing to support it.

In that bill the second time I provided that the Attorney General of the United States, or the United States district attorney authorized by Congress, should bring suit to test the validity and extent of the claim of the so-called Ogden Land Co. and for condemnation

and purchase, if they had any rights. I first got the idea from Bonaparte, who, if I remember rightly, was President Roosevelt's Attorney General. Bonaparte was a very able lawyer and a man greatly interested in Indian affairs, and he called attention to the fact that the condemnation of property had been extended beyond the right to occupy it for public purposes—in a great many cases it had been extended, where it covered a public benefit. For example, Gettysburg was condemned under that theory by the Government and that was carried to the United States Supreme Court. Now, the United States doesn't occupy Gettysburg, but it was a great public necessity in which it seemed that the United States was the only one that had gathered together all these pieces of land in order that they might be used for monuments and reservations for the States; and brackets and all those things that occupy it; and the United States Supreme Court upheld the decision. By its decision that is held to be a matter of great public benefit and that Congress was within its rights in passing that law.

We also found that in a great many New England mill cities condemnation had been upheld in the courts, where land was condemned for the purpose of building dams and making watersheds, land that was not occupied by the public but was used for the public benefit. I think we found in your State [Montana], Senator, that the legislature had authorized condemnation of land not occupied by the public but which was used for the public benefit. At any rate, we thought it well to test out along that line, if we could, the right of the Ogden Land Co. and of the people to purchase it at a reasonable figure.

In the bill which I refer to, providing their right was consistent as having the first right to purchase, we provided that there should be paid to the Ogden Land Co., by the arrangement Mr. Whipple referred to, made by their trustee, Mr. Appleby, in Brooklyn, the sum of \$200,000, which was a perfectly outrageous figure for their rights, conceding that they had everything that they claimed. Because their right is subject not to the individual right, but to the right of the whole nation of Indians. The only claim that the Ogden Land Co. can possibly set up is the first and exclusive right to extinguish the occupancy of these Indians. When will that come? Not so long as the Indians refuse, not so long as this 99-year lease is in effect. Suppose it is to be a hundred years. Then we must take the present value. Such a sum if put at interest will produce \$200,000 in a hundred years. But there is nothing less probable that these Indians will pass out in a hundred years. The only danger from the Ogden Land Co. is that we might by some act described in the decisions of the United States Supreme Court, by which the Indians would abandon their rights as a tribe, bring to life the rights of the Ogden Land Co. Unless such a mistake as that is made the Ogden Land Co.'s claim is practically worth nothing. It runs us so far into the future that any right of property they claim would be practically worthless.

I had a very excellent lawyer prepare a brief on the question of condemnation of the Ogden Land Co.

Senator WHEELER. We would be very glad to have a copy of it.

Mr. VREELAND. It is on file in the Indian Bureau. I doubt very much if I have a copy of it now; it was so many years ago.

Senator WHEELER. I think, Congressman, if your Representative from this district and your Senators would get busy and do something about it, we could probably work out a solution that would be beneficial to both the Indians and the white people up here.

Mr. VREELAND. Yes.

Senator WHEELER. I think there is probably a better feeling in Congress now toward the Indian than there has been for a long time.

Mr. VREELAND. Well, I have been over the road a long time and know that it is beset with tremendous difficulties.

Senator WHEELER. Your view with regard to it is that this land here belongs to the Indians as a nation?

Mr. VREELAND. Absolutely.

Senator WHEELER. As a tribe?

Mr. VREELAND. There can be no doubt in my mind about that.

Senator WHEELER. There isn't any individual ownership?

Mr. VREELAND. No individual ownership except as to possessory rights in the Seneca Tribe of Indians.

Senator WHEELER. If the other view should be consistent then there would be a question whether or not the Ogden Land Co. couldn't come in and wipe them out.

Mr. VREELAND. That is it exactly. You have stated it right there. No Indian has title to a foot of land on the reservation. It is owned by all of them as a nation, and it has got to continue to be owned by all of them as a nation until the Ogden Land Co. is dispossessed of what title they claim.

Mr. VREELAND. May I add a word? There was some young man testifying this forenoon who said that the amount they had received from the rents from the leases was less than it was when the 99-year lease was passed.

The CHAIRMAN. Yes.

Mr. VREELAND. I think he said it was \$11,000, and is now between \$8,000 and \$9,000. That is certainly inaccurate. It isn't possible for it to be true, because at that time all of this portion south of the river, which is where the majority of the people in town live, was brush and pasture land at that time. All of it now is covered with dwellings, which pay a great deal more than it did then.

Senator WHEELER. That was according to the statement of Meyer, made to the Secretary of the Interior in 1905.

Mr. VREELAND. From some sources it appears that the railroads, some railroads, at least, paid a lump sum for their rights of way instead of an annual rental. It may be that some such sum came in during one year from some such source.

Senator WHEELER. There ought to be some records here that could be checked up.

Mr. VREELAND. Yes. There has been a steady increase, outside of this village of Carrollton that you have heard about. There is a piece across the river which was pasture land and it was improved, people built houses on it, and that rent comes in in separate payments instead of a lump sum. So it is impossible that the rents haven't increased since that time.

STATEMENT OF WILLIAM H. COON, ATTORNEY, BATAVIA, N. Y.

The CHAIRMAN. Please give your name to the reporter.

Mr. COON. William H. Coon. I am attorney for the Tonawanda Nation of Indians by appointment of the State board of charities.

I will leave with the committee a brief which I think you will consider valuable. It is a brief made in an action in the county court of Genesee County, State of New York, in the matter of the application of Jennie Peters Parker for an order appointing commissioners to fix damages pursuant to section 85 of the Indian law of the State of New York.

Senator WHEELER. That was in the gypsum case?

Mr. COON. In the gypsum case, in which George W. Watson and William J. Darch were the attorneys for the Tonawanda Nation of Indians. Mr. Watson prepared the brief. I request your committee to ask Mr. Watson for a copy. I can't let you have this. It is my only copy. The matter is presented impartially from a historical standpoint and it is in no way controverted at all.

Senator WHEELER. In connection with that gypsum matter there has been some money paid in?

Mr. COON. Yes, sir; I am receiving about \$500 per month.

Senator WHEELER. Wasn't there some money paid in previous to your being appointed?

Mr. COON. Yes, sir.

Senator WHEELER. Has that all been accounted for?

Mr. COON. Yes, sir.

Senator WHEELER. It has all been accounted for by the different people to whom it was paid?

Mr. COON. It has. William J. Darch, of Batavia, my predecessor, who was district attorney in Genesee County, and by virtue of that office was attorney for this nation, has in his hands, as I understand it, about \$7,000 of the moneys received from the sale of gypsum which he has not turned over to New York State Indian agent by reason of the fact that he is under an injunction restraining him from doing so. And I have about \$5,000 which I have not turned over, as I understand I am also likewise restrained by injunction. The money is in the hands of the First National Bank of Batavia.

BATAVIA, N. Y., October 18, 1929.

Mr. W. K. HARRISON,

Special Agent in Charge New York Indian Agency,

Salamanca, N. Y.

DEAR SIR: Replying to your letter of October 17, gypsum is being mined on the Tonawanda Indian Reservation only under one lease, dated June 1, 1921, between James L. Kelly, district attorney of Genesee County and attorney for the Tonawanda Nation of Indians, and Sadie E. Nobles, which provides that the lessee should have one year for the purpose of boring, searching, and exploring for gypsum, without charge. It is my understanding that the lessee, or her assignee, actually commenced the mining of gypsum, and the payment of royalties for the same, one year after the date of the lease. I can only give you an estimate of the number of acres covered by the lease, which I estimate to be approximately 800 acres, for the reason that the lease describes the land leased as follows:

"Beginning on the west line of the reservation, at a point three-fourths of a mile northwest of the southwest corner of such reservation, thence running along the boundary line three-fourths of a mile to the southwest corner of the reservation, thence east along the south line of said reservation to the southeast corner of the same, thence north along the east line of said reservation

$1\frac{1}{4}$ miles to a point, thence in a southwest direction on a line to the point of beginning of the west boundary line."

You will note that the distances of the north and south boundary lines are not stated. The west boundary line runs at an oblique angle to the south boundary line. The east boundary line runs at an oblique angle to the south boundary line. From my intimate acquaintance with the reservation I have fixed the length of the south boundary line at approximately 1 mile, and the north boundary at $1\frac{1}{2}$ miles, in making this estimate of 800 acres.

This lease provides that the lessee shall pay to the lessor \$1 per cord for the first 500 cords of gypsum mined in each year, the year commencing on June 1, and \$0.75 per cord for all gypsum mined in excess of 500 cords, payable on the 10th day of each month for the gypsum mined during the preceding month, and provides that the lessee shall pay for at least 1,000 cords of gypsum each year whether that amount is in fact mined or not. This lease grants to lessee the exclusive right to mine on this reservation during the period of 20 years from June 1, 1922.

I understand that Sadie E. Nobles assigned her interests under this lease to Universal Gypsum & Lime Co., of Chicago, although I have never seen the assignment. That company has been mining gypsum on this reservation for several years past. I do not know how much gypsum was mined while James L. Kelly was attorney for the nation. Albert J. Waterman, as district attorney of this county, succeeding Mr. Kelly, was attorney for the nation during his term of three years. I do not know how much gypsum was mined on the reservation during his term. William J. Darch, of Batavia, was district attorney of this county for three years, succeeding Mr. Waterman. I do not know how much gypsum was mined on this reservation during his term of office. Mr. Darch's term of office as district attorney expired December 31, 1928. However, at some time about a year prior to that date I understand that he resigned the office of attorney for the Tonawanda Nation of Indians. Whether he actually resigned or whether he said he did not desire to continue as such attorney I do not know. Prior to February 3, 1927, the district attorney of Genesee County, pursuant to section 81 of the Indian law of New York State, was attorney for the Tonawanda Nation of Indians. By chapter 16 of the laws of 1917 of this State, in effect February 3, 1927, the State board of charities was directed to appoint an attorney for said nation. The State board of charities appointed me such attorney on April 17, 1928, and I am now acting under such appointment. I was district attorney for Genesee County and attorney for this nation of Indians from 1908 to 1916, inclusive.

Mr. Darch has informed me that he has in his possession about \$7,000, the exact amount of which I do not know, upon deposit in a Batavia bank to his credit as attorney for said nation, which amount he has agreed to turn over to me at any time. The reason why he has retained the same is that a proceeding was commenced on October 26, 1927, in the county court of the county of Genesee, N. Y., entitled "In the matter of the application of Jennie Peters Parker for an order appointing commissioners to fix damages pursuant to section 885 of the Indian law of the State of New York." I am informed that Jennie Peters Parker obtained a court order restraining Mr. Darch from paying the gypsum moneys in his hands and to be collected by him to you until the final decision of this proceeding. Jennie Peters Parker has owned an improvement or right of occupancy of a certain tract of land on the Tonawanda Reservation for many years, under which all of the gypsum mining has been done under said lease, as I understand it. In her petition in said proceeding she claims to be entitled to all of the money received from the sale of gypsum mined under her improvement. Mr. Darch and George W. Watson, attorney, of Batavia, defended this proceeding in behalf of Mr. Darch and the Tonawanda Nation of Indians, claiming that all of the gypsum money was required by law to be paid by the attorney for this nation to you, to be divided prorata among the members of this nation, and that Mrs. Peters was entitled to nothing for the reason that she only owned the right of occupancy of the surface of the land, and that her surface rights had not been damaged. The county court of Genesee County, N. Y., by Hon. Newell K. Cone, county judge, decided this proceeding on December 20, 1928, adversely to the contentions of Mrs. Parker, denying her petition for the appointment of three commissioners to fix her damages. John H. Heider, 404 Ellicott Square, Buffalo, N. Y., has been and still is the attorney for Mrs. Parker. The attorney general of the State of New York appeared in this proceeding by Henry L. Manley, assistant attorney general, in opposition to the petition.

Petitioner appealed from the decision and order of Judge Cone to the appellate division of the Supreme Court, fourth judicial department, State of New York, on April 16, 1929. The appeal was argued in that court about two weeks ago, and has not yet been decided. I believe it is the intent of the parties to take the case to the court of appeals of this State. You probably have records showing the amount of gypsum mined during the administrations of Messrs. Kelly, Waterman, and Darch and the amount paid therefor. For such reason I have not undertaken to get figures from them. If you require such figures, please apply to them for the same.

The first money received by me from Universal Gypsum & Lime Co. for gypsum mined on the Tonawanda Indian Reservation was received on February 12, 1929. I assume that Mr. Darch continued to receive the monthly installments until that date.

The amounts of gypsum mined on this reservation by said company each month, as shown by written reports made to me monthly by said company, and the amounts of money received by me for the same are as follows:

February 12, 1929, for December, 1928, 4,963.875 tons, being 533.75 cords, at \$0.75 per cord, \$400.31.

February 15, 1929, for February, 1929, 4,560.15 tons, being 490.34 cords, at \$0.75 per cord, \$367.76.

March 7, 1929, for February, 1929, 6,805.75 tons, being 731.801 cords, at \$0.75 per cord, \$548.85.

April 9, 1929, for March, 1929, 3,304.775 tons, being 355.352 cords, at \$0.75 per cord, \$266.51.

May 14, 1929, for period from April 22, 1929, to April 30, 1929, 1,609.8 tons, being 173.1 cords, at \$0.75 per cord, \$129.82.

May 10, 1929, for period from April 1 to April 21, 1929, 3,212.526 tons, being 345.33 cords, at \$0.75 per cord, \$259.07.

June 13, 1929, for May, 1929, 6,009.575 tons, being 646.91 cords, at \$0.75 per cord, \$484.64.

July 15, 1929, for June, 1929, 5,348.35 tons, being 575.0914 cords, at the rate of \$1 per cord for the first 500 cords and at the rate of \$0.75 per cord for 75.1914 cords, \$556.32.

August 13, 1929, for July, 1929, 7,052.325 tons, being 758.315 cords, at \$0.75 per cord, \$568.74.

September 5, 1929, for August, 1929, 7,552.10 tons, being 812.054 cords, at \$0.75 per cord, \$609.04.

October 10, 1929, for September, 1929, 5,552.75 tons, being 597.07 cords, at \$0.75 per cord, \$447.80.

The total amount of money which I have received is \$4,638.86. The Universal Gypsum & Lime Co. is in the hands of receivers, and commencing with July 18, 1929, such payments have been made to me by Abel Davis and Eugene Holland as receivers in equity for Universal Gypsum & Lime Co.

The Tonawanda Indian Reservation contains 7,548 acres.

There are no gypsum mills on this reservation. The gypsum mills of Universal Gypsum & Lime Co. are situated outside of this reservation. Most of its mining has been done upon lands without the reservation. Its plant is near the reservation. Its shaft to the gypsum veins upon the reservation lands descends off from the reservation from the bottom of which tunnels run across the reservation line under the reservation lands.

I have no basis for stating a valuation of the gypsum mines upon the reservation. Gypsum was mined upon this reservation 25 or 30 years ago for a brief time upon the surface, along a ledge bordering upon the Tonawanda Creek, to which a switch track of the West Shore Railroad Co. led, but this mining was discontinued more than 20 years ago. Messrs. Darch & Watson, without any basis for their estimate except the amount of gypsum which has been mined upon the reservation under said contract, have stated, as I understand it, that the gypsum underlying the Tonawanda Indian Reservation might be of the value of at least \$1,000,000. It is well known by everyone that the Tonawanda Indian Reservation is in the direct line of the valuable gypsum veins extending east and west through western New York, in close proximity to the mines of the United States Gypsum Co., Niagara Gypsum Co., and several other large gypsum companies in Genesee and Erie Counties.

I think that I have hereinbefore shown the extent of the gypsum development upon this reservation. It is very slight to date, only being under the improvement of one individual Indian so far. If the Commissioner of Indian

Affairs requires more definite data, he could readily obtain it at Akron, N. Y., as well as its general office in Chicago from the Universal Gypsum & Lime Co. Of course I could obtain the same information if the commissioner requires it.

You can compute the annual output of gypsum upon the reservation from the above figures. I am unable to give you the output for past years because I have not handled the matter. I have not collected for one full year yet.

Very truly,

WILLIAM H. COON,
Attorney for Tonawanda Nation of Indians.

STATEMENT OF RAYMOND JIMERSON, PRESIDENT OF SENECA COUNCIL

The CHAIRMAN. Please give your name to the reporter.

Mr. JIMERSON. Raymond Jimerson.

The CHAIRMAN. And you are president of the Seneca council?

Mr. JIMERSON. Yes, sir.

Senator WHEELER. How long have you acted in that capacity?

Mr. JIMERSON. Since a year ago last December.

The CHAIRMAN. This is your first term, then?

Mr. JIMERSON. Yes, sir.

The CHAIRMAN. Have you any statement to make on any matter that has not already been covered by the other speakers?

Mr. JIMERSON. No, there isn't anything that I can think of at this time.

Senator WHEELER. We want to know about this oil lease that has been made.

Mr. JIMERSON. Is that what Mr. Williams mentioned here a while ago?

Senator WHEELER. No, the last lease that your council issued to somebody here in town.

Mr. JIMERSON. I think that was to Henry A. Walters.

Senator WHEELER. That is the one. What are the terms of the lease?

Mr. JIMERSON. This lease was made for 25 years.

Senator WHEELER. How much a year?

Mr. JIMERSON. They agreed to pay \$1,000 a year until such time as the rentals or royalties from the oil should exceed that amount.

Senator WHEELER. How many acres are involved?

Mr. JIMERSON. I don't just remember, but it is twenty some thousand.

Senator WHEELER. Over 20,000 acres?

Mr. JIMERSON. Over 20,000 acres.

Senator WHEELER. Did they pay down any money?

Mr. JIMERSON. No.

Senator WHEELER. Has the lease been approved?

Mr. JIMERSON. No.

Senator WHEELER. Where is it?

Mr. JIMERSON. I think it is before the Secretary of the Interior.

Senator WHEELER. You say you "think" it is?

Mr. JIMERSON. Yes.

Senator WHEELER. Don't you know whether it is or not?

Mr. JIMERSON. I think that is up to the man that we gave the lease to—Henry A. Walter.

Senator WHEELER. When you make a lease involving such an amount don't you take it to the special agent or superintendent here to have him look into it.

Mr. JIMERSON. Well, we didn't with this last, I don't know what they have done in the past with other leases.

Senator WHEELER. That is what he is here for. The special agent is appointed by the Government for the purpose of assisting the Indians in trying to protect their rights and to see to it that when they make leases of this kind with white people that the Indians' rights will be fully protected. That is what he is here for. Don't you think that you, as president of the council, owe it to the rest of the tribe to take such matters to the special agent and let him look into them and advise with you as to whether or not you are getting what you should get?

Mr. JIMERSON. I don't know. That all depends on how this man was appointed to his office and what his duties are.

Senator WHEELER. Well, don't you know what his duties are?

Mr. JIMERSON. No.

Senator WHEELER. You didn't take the trouble to find out?

Mr. JIMERSON. I know what some of his duties are—to collect the nation's money on gas leases and oil leases.

Senator WHEELER. Well, that is only a part of his duties. He is supposed to try to protect the Indians, and if he doesn't try to protect the Indians then you ought to advise the department about it. What was the royalty that they were to pay?

Mr. JIMERSON. One-sixth on the oil, and \$200 per well a year on the gas, on all wells that produce—there was a certain amount specified. If they produced over a certain amount they were to pay an extra hundred dollars. That would be \$300 per year per well on the gas.

Senator WHEELER. And not to pay any royalty on the gas at all?

Mr. JIMERSON. No.

Senator WHEELER. Are there any gas fields, or wells, off of the reservation here?

Mr. JIMERSON. I don't know about the Allegany Reservation—I couldn't tell you.

Senator WHEELER. Well, did you ever look it up to ascertain what white people generally got as a royalty on gas?

Mr. JIMERSON. I did ask a man that we leased land to, but that was on gas, and he stated that what they produced they paid for as so much per well.

Senator WHEELER. I should think that gas ought to be so much more valuable than it is in my State. In my State they pay a royalty for so much percentage of the gas that they get, and I think if you had the welfare of the Indians at heart here you would get the very best terms that you possibly could in a lease of that kind.

Mr. JIMERSON. I tried to have them pay on the royalty basis but they refused to do it.

Mr. VREELAND. I suppose there is ten times as much land, maybe twenty times as much land leased to white people off of the reservation as there is on the reservation. So far as I know none of it is on the royalty basis. So far as I know it is \$100 a well, with the pro-

vision in some of the leases if it runs over two or three million then they should pay more. A large amount of lands are being leased at the present time east of here for oil and gas, and I may say that I myself have signed a lease within the week for 571 acres on which they have found gas. We will get \$100 a well.

Senator WHEELER. I take it that you are capable of looking after your business yourself.

Mr. VREELAND. I think that Indian lease over there is the best lease in that section. They have oil on the land they leased and quite a number of other things that other folks don't get.

Senator WHEELER. Somebody has suggested to me that here they have oil wells within the city limits.

Mr. VREELAND. I think that must be up in Carrollton.

Senator WHEELER. Are those wells producing now?

Mr. VREELAND. I don't know. You will have to ask the Agent.

Senator WHEELER. Did the council grant leases up there in Carrollton on oil, do you know?

Mr. JIMERSON. For oil?

Senator WHEELER. Yes.

Mr. JIMERSON. That was before my time. I think they are old leases.

Senator WHEELER. You don't know anything about that?

Mr. JIMERSON. No.

Senator WHEELER. The superintendent calls my attention to the fact that people in the cities who have leased property up here sublease their land for the drilling of oil and that the fellow that got the first lease from the Indian, the 99-year lease, collects the royalty.

Mr. VREELAND. In this city?

Senator WHEELER. In Carrollton.

Mr. HARRISON. A lease within the authorized lease limits, within the village of Carrollton, is provided for in this Act of 1875. The lessee holds for 99 years. They lease their land for oil purposes without any reference to the Council.

Mr. VREELAND. I never heard of one of them that didn't lose money up there.

Senator WHEELER. I don't think that they would have any right to do that—to lease the land without reference to the Council. I am not familiar with the laws here. I didn't think that a 99-year lease would carry with it that right at all. Ordinarily when they lease the land they lease the surface rights.

STATEMENT OF DR. EDWARD BOLARD, SALAMANCA, N. Y.

(The witness was sworn by the chairman.)

The CHAIRMAN. You are connected with the oil company?

Doctor BOLARD. Yes, sir.

The CHAIRMAN. What is the name of your company?

Doctor BOLARD. Finance Oil Co.

The CHAIRMAN. Is it your company that has made some of the leases on this Indian property?

Doctor BOLARD. The Finance Oil Co. and Reservation Gas Co.

Senator WHEELER. How do you sell your oil?

Doctor BOLARD. We don't sell any oil. We sell gas.

Senator WHEELER. Don't you produce any oil?

Doctor BOLARD. No; no oil in this country.

Senator WHEELER. Where do you sell your gas?

Doctor BOLARD. Iroquois Gas Co., Buffalo.

Senator WHEELER. You have heard the statement here in regard to the leases? That is practically correct?

Doctor BOLARD. Yes; that is given on this list of leases. Our leases are different to that. Our leases were granted in 1911.

Senator WHEELER. For how long?

Doctor BOLARD. As long as oil and gas is found in paying quantities.

STATEMENT OF MRS. PRISCILLA K. JIMERSON, SALAMANCA, N. Y.

The CHAIRMAN. Please give your name.

Mrs. JIMERSON. Mrs. Priscilla K. Jimerson.

The CHAIRMAN. How long have you lived here?

Mrs. JIMERSON. I came here to Salamanca after the Civil War. I was quite young. I came from Canada. I came with my dad. He was a Presbyterian minister. He came to preach amongst the whites, and I came with him. I got married here and I stayed here. My dad moved here from Port Huron and he died here. I am still here. I am a widow. My husband is dead.

Senator WHEELER. Do you have some property here?

Mrs. JIMERSON. Yes, sir.

Senator WHEELER. Do you want to make some statement to the committee in regard to the conditions of your people?

Mrs. JIMERSON. Yes, sir.

Senator WHEELER. Very well; make it as brief as possible.

Mrs. JIMERSON. When they were talking about the 99-year leases I kept boarders. I always kept boarders for the council. I kept boarders here back of the Dudley House. The president met me on the street and he says, "Mrs. Jimerson, I would like to have you keep boarders. I don't like it where we are boarding." I says, "If I can find a house I will keep boarders." I asked in the Hamilton drug store where I could get a house to keep boarders. He showed me a house, and I says, "Let's go and see it." I says, "How much you charge me a week?" He says, "\$2." I says, "It's mine." I kept it quite a number of weeks. I got beds and groceries and stocked it right off. They were holding council over at Charley Neice's. I says to one of the girls, "Jennie, come here. Will you work for me?" She thought it was down home, at first, and I says, "Right in town here, for the councilors." So I boarded them. Well, they promised me they wouldn't drink. After a while they commenced to come in drunk. I was against drinking and they were afraid of me, so when they came in they wouldn't make any fuss; they would go right upstairs to bed. They kept on drinking, and I kept on telling them not to lease the land for 99 years, so did the Quakers. They kept on drinking and drinking, so finally they let it go for 99 years, they made a 99-year lease. They didn't have to, but they did.

Senator WHEELER. And you think the 99-year lease was made largely under the influence of liquor, do you?

Mrs. JIMERSON. Yes, sir; that is it. I says, "I want to keep you straight." Well, the president, he came, so he drank—Thomas

Kennedy. They sent for me, and they said, "Go to your house and get the boarders; the president he is drunk." I didn't see them, but I heard them in the next room. I went in and I says, "Uncle Tommy, you go home and go to bed." "Mind your business," he says. And that was the way they got the lease—by getting them drunk. Many a bottle I smashed. I had to upstairs to make the beds and I would smash the bottles of whisky when I found them.

Senator WHEELER. Who did the council make the lease with?

The CHAIRMAN. Who did the council make the lease with? Was there a committee here at that time?

Mrs. JIMERSON. Charley Neice owned that brick there, and this Bill Fish kept the store, and they would keep coming into my house and talk to them about the lease.

The CHAIRMAN. You don't think, then, that it was in keeping with the wishes of the Indians in general to lease the property for 99 years?

Mrs. JIMERSON. No.

Senator WHEELER. You think they got the Indians drunk to get them to sign the lease?

Mrs. JIMERSON. Yes. They never done any business—the councilors—unless they had drink. There was always dirty work done. My husband was a councilor once, and he says, "I'm going to get out; I ain't going to do no dirty work; I'm going to get out." So he did. He quit. He says, "I'm not going to be blamed by the people."

The CHAIRMAN. Whose fault do you think it was—the fault of the councilors, or the fault of the white people that they dealt with?

Mrs. JIMERSON. Well, both the councilors and the whites.

The CHAIRMAN. Do you wish to make any further statement?

Mrs. JIMERSON. They are all dead and gone now, except one. There is only one councilor living that I boarded, and that is Charley Gordon. The rest of them are all dead and gone.

The CHAIRMAN. Very well.

STATEMENT OF REV. PARRIS F. HAWTHORNE, SALAMANCA, N. Y.

The CHAIRMAN. Please give your name to the reporter.

Reverend HAWTHORNE. Parris F. Hawthorne.

The CHAIRMAN. You live here in the village?

Reverend HAWTHORNE. Yes, sir.

The CHAIRMAN. How long have you lived here?

Reverend HAWTHORNE. Almost 10 years. It will be 10 years the 1st of January.

The CHAIRMAN. Do you wish to make a statement to the committee in regard to the Indians here?

Reverend HAWTHORNE. Well, there are a few things I would like to mention that I have been interested in recently. The most recent is the nonpayment of damages to the Indians along the newly constructed highway from Salamanca to Red House.

The CHAIRMAN. Do you mean that they haven't been paid for damages done to their properties along the right of way of the highway?

Reverend HAWTHORNE. They have not.

The CHAIRMAN. Or for the right of way?

Reverend HAWTHORNE. Some of them have, and some of them have not, for the reason that the county supervisors claim that they are not entitled to damages.

The CHAIRMAN. What is this, a county road?

Reverend HAWTHORNE. It is a State highway. I have here, Mr. Chairman, a resolution which was passed by the council of the Seneca Nation of Indians which I should like to read [reading]:

Jonas Crouse offered the following resolution:

Resolved, That this council grant to the State Highway Commission of the State of New York the right to improve the present highway now located on the Allegany Reservation, from the west boundary line of the city of Salamanca to the west boundary line of said Allegany Reservation where same now crosses the said highway at or near Steamburg, N. Y., and said highway to be 66 feet in width; and that said highway commission is given the right to straighten said highway where same may be necessary; and be it further

Resolved, That the Seneca Nation of Indians in council assembled does hereby approve and consent to the laying out of the highway or highways as aforesaid, to the end that the individual Indian owners of property which may necessarily be taken for said highways shall be justly compensated."

I am speaking of the Indians who have not received any compensation. Some of them have been compensated. There was a time last spring when this road was being developed, or was being graded, that the Indians who were not compensated held up the work, and a council was held at which were present State representatives, the county supervisors responsible for securing the right of way, the State engineer, and three representatives of the Indian council. It was agreed at that council, at my suggestion to the Indians affected and who were not compensated, that the matter of road building be resumed and that the work go on without any further interruption, pending a final settlement. And I promised the Indian folks that I would take the matter up with the department at Washington, which I did personally. That happened about a year ago, I suppose—in July. These folks have not yet been compensated. The sentiment of the State officials at that time was that they were not under obligation to compensate these owners for the reason, as they claimed, that in constructing this highway, they were not diverging from the center of the old highway, and since the center of the new highway was the same as the center of the old highway, the State wasn't under obligation to pay any compensation. The State engineer made the remark that the Indians all these years have been encroaching on the State right of way, that they have built their fences out on the State highway, planted trees there, and so on, when the real fact is that the State never had a right of way from Salamanca to Red House on the south side of the river until the act of this council granting this 66-foot right of way. So that the contention of the Indians is that they should at least be compensated for damage from the shoulder of the road, as the State found it before they received this right of way. At that time the road was practically in the neighborhood of 30 feet wide from shoulder to shoulder.

I presented this proposition to the department and the department assured me that the State would have to show that it has met the requirements before they would give their final O. K. to the finished

road. I understand from the agent that an order was issued to the State Department to deposit a certain amount of money to take care of this damage, but he didn't know whether that was done. I feel that the matter should be looked into and that these Indian folks should be properly compensated.

Another matter affecting our Indians here in the city bears on the question of taxation.

The CHAIRMAN. Are some of the Indians taxed here in the city?

Reverend HAWTHORNE. One of our Indians has paid, if I remember rightly, something close to \$200 tax.

The CHAIRMAN. For conducting a business here, you mean?

Reverend HAWTHORNE. On a private home, a private dwelling. She was led into the payment of that tax when she was about to make a deal to sell part of her property here in the city. The purchaser asked whether there was any tax against the property. He was told by the attorney representing the lady that there was a city tax against the property, a sewer tax, and this lady has a receipt for that. I took this matter of taxation of this property up with the city council of Salamanca. I met with them a few times and they came to the decision that they had a right to collect the tax. I then took the matter up with the Department at Washington and they order the United States District Attorney at Buffalo to defend the rights of this Indian woman. The city controller of Salamanca was asked by the United States district attorney in Buffalo to lay off on the selling of this property to pay taxes, that is, the selling of a part of this property to pay the city tax.

Now, I just noticed in the Salamanca Press the other day that among the properties that are to be sold, or parts of property to be sold, for taxes, is the property of this Indian woman. It seems to me that that is a matter that should be taken care of, and that the city should not molest this woman, because it is not consistent with the terms of this 99-year lease—I don't know whether you have heard the prelude to the granting of this 99-year lease, it is very interesting—and the spirit of good will was manifested by this committee of 15 Salamanca men, I think. At the conclusion of the Federal act permitting the lease, here is where our Indians are protected from taxation within the State [reading]:

Volume 18, page 330, chapter 90, section 8:

"That all laws of the State of New York now in force concerning the laying out, altering, discontinuing, and repairing highways and bridges shall be in force within said villages (Vandalia, Carrollton, Great Valley, Salamanca, Red House, N. Y.) and may with the consent of said Seneca Nation in council, extend to, and be in force beyond, said villages in said reservations, or in either of them; and all municipal laws and regulations of said State may extend over and be in force in said villages: *Provided, nevertheless*, that nothing in this section shall be construed to authorize the taxation of any Indian, or the property of any Indian not a citizen of the United States."

I consulted the department with reference to this matter and they assured me that I was right in my judgment, that our Indians were not subject to taxation within the city of Salamanca or within any of these incorporated villages on the reservation.

Senator WHEELER. But notwithstanding that the city is still bothering these particular Indians?

Reverend HAWTHORNE. For property tax—sewer tax.

Senator WHEELER. They haven't any right to do so—not in my judgment, at least.

Reverend HAWTHORNE. It is a matter of concern to these folks and it worries them.

The CHAIRMAN. Is that the only case you know of where the city is trying to tax an Indian?

Reverend HAWTHORNE. This is the only case where they have put improvements on Indian property.

The CHAIRMAN. How about it outside of the city here?

Reverend HAWTHORNE. They are not taxed on the reservation.

The CHAIRMAN. This is a part of the reservation right here in the city of Salamanca.

Reverend HAWTHORNE. But they are not supposed to be taxed here. The section I just read says that.

The CHAIRMAN. I agree with you.

Senator WHEELER. Now, what are the moral conditions among the Indians here?

Reverend HAWTHORNE. Well, when folks ask me that question I tell them that the moral conditions on the reservation are not any worse than they are in Salamanca. Our Indians don't go any further immorally than our white neighbors.

The CHAIRMAN. In marriages and divorces do they comply with the State laws?

Reverend HAWTHORNE. Some of them do—those who were married according to the laws of the State. Some of them secure State licenses to marry, and when they do if they are divorced they must secure their divorces from the State courts. Some of them are married by the Indian court law, and in that case they receive their divorce from the Indian courts. Some of them are married simply by the Indian custom, where they decide to live together as man and wife.

Now, with reference to the law enforcement, especially the prohibition act, I might say we get practically no results on the reservation, and that in the city of Salamanca our citizens are arrested for being drunk, but practically no effort is made to arrest the people who give them the whisky to drink.

Senator WHEELER. They don't arrest the bootlegger?

Reverend HAWTHORNE. They don't arrest the bootlegger.

Senator WHEELER. They enforce the prohibition law against the buyer rather than the seller?

Reverend HAWTHORNE. Yes, sir.

The CHAIRMAN. The assumption might be that the bootlegger pays the authorities for protection against arrest.

Reverend HAWTHORNE. I wouldn't say that he pays the authorities; I just say that I know the law isn't being enforced. I know that complaints have been made by Indian women, that written statements were made before attorneys, that were supposed to be sent to the Federal Department in Buffalo with reference to the selling of drink to their husbands, and that absolutely nothing has been done about it.

Senator WHEELER. You say those complaints were sent to the United States district attorney?

Reverend HAWTHORNE. I meant to the dry enforcement department in Buffalo.

The CHAIRMAN. To the Federal authorities.

Reverend HAWTHORNE. The Federal authorities.

The CHAIRMAN. Very well. Thank you.

Mr. GRORUD. What about the schools, the reservation district schools?

Reverend HAWTHORNE. We have seven reservation district schools that are on a par with any country district school, I would say. Last year on our reservation there were seven or eight children graduated from the eighth grade, and four or five of them, at least, are attending high school in Salamanca at the present time. A dozen or more of our young folks that graduated from high school are now attending Haskell Institute in Lawrence, Kans.

The CHAIRMAN. Thank you.

STATEMENT OF J. M. SEYMOUR, CITY ATTORNEY, SALAMANCA, N. Y.

The CHAIRMAN. Please state your name and occupation to the reporter.

Mr. SEYMOUR. My name is J. M. Seymour. I am attorney for the Seneca Nation of Indians and also attorney for the city of Salamanca. Therefore, my connection with this tax matter is rather embarrassing. This matter was brought to the attention of the city council of Salamanca by Reverend Hawthorne I think some two years ago. There are two, I don't think more than that, possibly three, Indians that live and own property within the city of Salamanca. It was new to me when it was brought in and I looked the matter up. The Indian law of the State provides that the Indians can not be taxed unless they own more than \$2,000 worth of property. Of course, up to \$2,000 it is exempt. This so-called tax of the city, therefore, was really not a tax, it was an assessment for public improvements, for sewers or paving, or something of that kind. And our decisions hold that this is not a tax, it is an assessment for improvement of property. I therefore determined that the assessment was perfectly proper. We haven't gone to the point of finding out about the right of the State to tax other Indian lands here. An Indian might hold land here under two titles—he holds under the council who allots it, or under the right or title of the individual Indian. That may have been before the 99-year leases, but on looking up this particular case we found that some of these Indians obtained 99-year leases from the council the same as the white men, their purpose being mainly to make it possible for them to mortgage or sell the property to the white people. We haven't been putting any city tax on them, probably we should, but I believe we never have assessed them for general taxes. The only assessment we have ever made against them was for an improvement of some kind or other.

Now, this State road which has been mentioned here by Reverend Hawthorne is not a State road, in a sense, it is what we term a "Federal-aid highway." It has been improved by every Indian that lives along it and by Federal-aid money. Of course, that road had to be straightened out in certain places in order to improve it,

and the method of procedure under the law was under the right of condemnation, but the council of the Seneca Nation of Indians passed a resolution granting the right of way. Under that grant the superintendent of highways could compensate the individual owners concerned along the right of way, and if they didn't accept or agree to his offer of damages they were permitted to make an application to the county judge who would appoint a commission to fix the amount of damage to the property. So that any person who has not received his compensation can make his application to the commission appointed by the county judge and have his damage assessed.

Reverend HAWTHORNE. I should like to state in that connection that no such offer was made to these folks that I am representing.

Mr. SEYMOUR. Your folks didn't have any land assessed, according to the State engineers.

Reverend HAWTHORNE. But there was no right of way until about a year ago when they granted the 66-foot right of way from Salamanca to Steamburg. There was a 66-foot right of way north of the river for the old road, which was granted some years ago, but that road was abandoned, I don't know just how long ago but possibly about 15 or 20 years ago. At that time they began to develop this road from Red House to Salamanca on the south side of the river, and they had that gravel road developed there in nice shape. There wasn't any objection to that at all. But when they came in here with this new road the supervisors and engineers figured that so long as the center of the new road was the same as the center of the old road, so long as they didn't get off the center of this old road, they didn't have any damage to pay. I made the statement that the Indians that I represented contend that as long as there wasn't a State highway, as long as they hadn't any roadway previous to that, they were at least under obligation to compensate these Indians for damage to their property from the shoulder of the road back to the 66-foot line on each side of that road. That was their contention, and it still is.

With reference to the city tax, that special act of Congress was passed granting the city the privilege of leasing this ground and the State the privilege of extending its line over to the reservation within the city limits, but reserving the exemption right of the Indians from taxation within the city of Salamanca. Of course, I know the city calls it an assessment, but that is only a technicality.

Mr. SEYMOUR. There is no use disputing about that because we will have to abide by the decision of the United States district attorney's office in Buffalo.

(The witness was sworn by the chairman and testified through an interpreter, C. A. Watt, as follows:)

Mr. GORDON. They held a council for six weeks. Then during the council white citizens requested of me to go there and consent to extending the leases for 99 years. It appears that some of the head leaders among the councillors held some private councils between themselves, and the balance of the 16 councillors were not invited to these secret councils. And that is the reason why I can not tell the whole situation as to these private council meetings that they had.

Senator WHEELER. Did the white men get the Indians to drink up there?

Mr. GORDON. Yes; there was a lot of drinking. There was a Quaker friend of the Indians who came there to attend the council and to try to see that the Indian got a square deal. He was there for two weeks. I was offered \$200 if I would O. K. these 99-year leases.

The CHAIRMAN. Who was offered that money?

Mr. GORDON. I was.

The CHAIRMAN. Did you take the money?

Mr. GORDON. No. The gang had a saloon and one of the councilors was there drinking most all of the time, and they invited me over and the gang pulled out a lot of money. He said, "Any time you are ready to sign, here's the money." I refused it. I can testify as to that. I knew real well that whisky and money played a great part in the granting of these leases.

The CHAIRMAN. Very well, thank you.

We will have to close the hearing now. If there are any Indians who have not had a chance to testify or who have statements written out or will have statements written out for them, we will be glad to include the statements in the record.

Both of the New York Senators were invited to attend the hearings, also the Congressmen from this district. Senator Copeland told me personally that he could not come to-day but that he would be with us to-morrow in Syracuse. He requested Doctor Le Seur to represent him at the hearing to-day. Senator Copeland is very much interested in the Indian question.

Thank you for your attendance here and for the information you have given us.

STATE OF NEW YORK,

County of Erie, city of Buffalo, ss:

John J. McKay, being first duly sworn, deposes and says:

That he resided within the boundaries of Allegany Indian Reservation, N. Y., from about the year 1874 until the year 1894; that affiant and his father, Richard J. McKay, were in the general merchandise business at Salamanca, Allegany Reservation, N. Y., from about the year 1884 up to the year 1897; that Charles M. Dow, Hudson Ainsley, W. H. Westinghouse, and Richard J. McKay about the year 1884 leased from the Seneca Indians 33 acres of land for the purpose of operating stock-feeding yards, paying therefor an annual rental of \$100; that subsequent to the leasing of said 33 acres of land affiant and one J. R. McPherson, of Sea Bright, N. J., associated themselves together and formed the Salamanca Stock Yard Co., each owning one-half interest, which became the operating company for the operation and maintenance of stock-feeding yards, caring for livestock shipped and fed in transit by the Erie Railroad Co.; the said operating company did pay and is now paying \$100 per month to the holding company as rental for the said 33 acres; that the original owners and their respective interests in the said lease of said 33 acres from the Indians were Charles M. Dow, Jamestown, N. Y., one-fourth interest; Richard J. McKay, one-fourth; Hudson Ainsley, three-eighths; W. H. Westinghouse, one-eighth; that this affiant succeeded to the interest of Richard J. McKay.

That about the year 1895 affiant disposed of his interest in the Salamanca Stock Yards Co. to the Erie Railroad Co., which railroad company is still operating the same; that affiant disposed of his interest in the lease of said 33 acres to one Fitzgerald some time during the late nineties; that affiant does not at this time know the particular persons who owned the various interests in the lease of said 33 acres, however, affiant is reliably informed that Mr. Ainsley still retains his said interest; that the rental of \$100 per annum is still being paid to the Seneca Nation for said leased premises and that \$100 per month is still being paid by the Erie Railroad to the lessees holding the lease for said 33 acres.

That some time during the eighties, and when this affiant was a resident of Salamanca, a certain area of land containing several acres of land was leased by the Seneca Nation upon which a tannery was constructed and operated by the United States Leather Co., which said area of land adjoined the right of way of the Erie Railroad Co. and Wildwood Avenue in the city of Salamanca; that affiant for some time acted as agent for said United States Leather Co., particularly in looking after the paying of rent to the treasurer of the Seneca Nation for the leased lands, the rental was usually paid to one W. C. Hoag, treasurer and sometimes president of the Seneca Nation or councilors.

That some time subsequent to the year 1892 the said area of land which was occupied by the said tannery was subdivided into small parcels of land or city lots and subleased to other tenants; that the Seneca Indians still receive the rental for the original area leased to the said United States Leather Co. while large sums are realized from the subdivided tracts.

That some time during the late eighties or early nineties, the various persons holding lands under lease from the Seneca Indians organized themselves into what was known as the "citizens' committee" for the purpose of securing the approval of Congress and the Seneca Nation through its councilors for an extension of the tenure of leases from a 12-year to a 99-year tenure.

That the said citizens' committee did, some time about the year 1890, succeed in getting the approval of Congress for a 99-year tenure for said leases; that thereafter, and about the year 1892, the said citizens' committee proceeded to obtain the approval of the Seneca councilors for the said 99-year lease tenure; that said citizens' committee and councilors met for the purpose of negotiating and agreeing upon the terms of renewal and the tenure of these leases for a 99-year period; that affiant was one of the delegates selected to negotiate with said councilors; that affiant represented what was known as the fifth district. The delegates so selected and known as the citizens' committee were all leaseholders of Indian land within the Allegany Reservation; that the citizens' committee, in its efforts to obtain the consent and approval of the councilors to a 99-year tenure of leases, found that a majority of the councilors were opposed to the extension of the lease period; that the meeting for these negotiations remained in session for about six weeks; that during this period of time the citizens' committee furnished all intoxicating liquors that the Indian councilors could consume and kept them in an intoxicated condition during all of the time of these negotiations; that the councilors who refused to consent to the 99-year lease were ousted and other members of the tribe who were willing to consent to the 99-year extension of the lease period were substituted; that the room where said negotiations took place were held in what was known as the Nies Building, situated on the second floor of the said building; that Charles Nies operated a saloon on the ground floor of said building; that one room in the back of said saloon and barroom was set aside for the exclusive use of the Indian councilors, and a stairway connecting said room with the room where the negotiations took place; that said Charles Nies was a lessee of a large block or area of Indian land on which about 60 buildings were situated at the time of the said lease; and that such leases were obtained from the Indians and paid for in whisky; that one O. S. Vreeland, a brother of Edward Vreeland, then a Congressman, was a lessee of a large acreage of Indian lands; that one W. C. Hoag was alternately either president or treasurer of the Seneca councilors for many years and collected practically all the moneys from the income derived from leases of Indian lands, whether acting as president or treasurer; that the said 99-year tenure of lease was obtained from the Seneca councilors through corruption and fraudulent methods; that the Seneca Nation have been deprived of large sums of money through said manipulations.

That the approval of the councilors for the extension of leases were handled in a very loose and slipshod manner; for example, large packages of executed leases were approved by the councilors by a single motion and without any consideration as to their locations, value, or otherwise. It was simply a shameful deal that should never have been permitted in any civilized country; that the money used for the purpose of corrupting and bribing the Indians was obtained from donations by white citizens of Salamanca and elsewhere and levied upon leaseholders; that large sums of money were obtained in this manner and it was used freely in corrupting, bribing, and debauching the said councilors; that the councilors during all the time of the negotiations were housed and maintained at hotels free of charge and in many other ways entertained and bribed; that practically all the whisky furnished said councilors was purchased from said Charles Nies and paid for out of the citizens committee's funds.

OIL LEASING

That some time during the later part of the nineteenth century leases for oil and gas prospecting on the Chipmunk oil field situated near the village of Carrollton, Allegheny Reservation; that the Seneca Oil Co., represented and owned by Dr. Edward Bolard, Edward Vreeland, and A. T. Fancher, and others at said time, negotiated for and secured oil and gas leases from the Seneca councilors; that there were many other bidders for said oil and gas leases, including the Eastern Oil Co., represented by John L. Snyder; the Devonia Oil Co., represented by affiant, and other oil companies; that the Devonia Oil Co., which affiant represented, soon withdrew from the bidding because the Seneca Oil Co. representatives were favored by the councilors on account of its furnishing liquor, graft money, etc., to the councilors; that the Seneca Oil Co. used intoxicating liquors and money to corrupt the Seneca councilors in the securing of its oil and gas leases; that those who were most active in corrupting said councilors were Edward Bolard, Edward Vreeland, and A. T. Fancher; that said W. C. Hoag, president and sometimes treasurer of the Seneca councilors, was paid large sums of money for his influence in the securing of said leases; that immediately after the securing of the said oil leases by the Seneca Oil Co., the South Penn Oil Co. offered to the Seneca Oil Co. \$75,000 for its said lease; that thereafter and when the Seneca Oil Co. had been in operation for a short time, had succeeded in producing oil, it sold its interest in and to said leases for the sum of \$200,000 to the South Penn Oil Co.; that the South Penn Oil Co. operated said leases for many years; that the South Penn Oil Co. is a subsidiary of the Standard Oil Co.; that in recent years the South Penn Oil Co. sold its interest in the said leases to the Vacuum Oil Co. which is now operating said leases.

BOLARD GAS LEASE

That some time during the years 1909 or 1910 one Edward Bolard again secured gas leases on the Cattaraugus Reservation, that this affiant states that said Hoag received a certain cash sum through said Edward Bolard for his (Hoag) influence in securing said leases, and that said Hoag and one Patterson received a monthly sum amounting to about \$300, which monthly sums were paid to said Hoag and Patterson up until the time of the deaths of said Hoag and Patterson; that subsequent to said W. C. Hoag's death said monthly payments were paid to one Arthur Hoag, an adopted son, at least until the death of A. T. Fancher, which occurred a few weeks ago; that the payments to Patterson ceased upon his death and were not paid to his heirs until after negotiations and threats of suit, Mr. Edward Bolard, paid the Patterson heirs \$5,000.

OKLAHOMA VENTURE

That subsequent to the said sale of the Seneca Oil Co. to the South Penn Oil Co. Mr. Edward Vreeland, then a Member of Congress, and associates, through some negotiations with the then Secretary of the Interior, E. A. Hitchcock, secured leases on oil lands or interests in same in the State of Oklahoma; that through the manipulations of said Vreeland and other politicians of western New York and the said Secretary of the Interior a series of corporations were organized for the purpose of holding and securing oil concessions in Oklahoma and through the aid of the then Secretary of the Interior, Hitchcock, various and large tracts of oil lands were secured, from which transactions said Vreeland and associates realized large sums of money; that for the part of the then Secretary of the Interior Hitchcock played in said transactions, blocks of corporate stocks were given to him, from the sale of which he realized large sums of money.

W. C. HOAG'S ACTIVITIES

That W. C. Hoag for many years acted in one position or the other, that is, president and treasurer of the Seneca councilors, but at all times said Hoag was directing the business and handled the finances of the Seneca Nation regardless whether president or treasurer.

That when any lease or transaction of any kind were negotiated with the Seneca councilors said W. C. Hoag demanded and did receive 25 per cent bonus in addition to what was paid the Seneca councils or nation; that said Hoag received a cash lump of \$15,000 for putting over the gas lease of Doctor Bolard in 1910.

That it was the custom of the councilors, particularly the treasurer, for many years to issue what was known as "Seneca treasurer orders" or credit slips; that such orders or credit slips would be used by the councilors as a medium for currency and were drawn on the treasurer of the Seneca Nation; that for years, that is, about a period from 1884 to 1897, the treasury would be usually empty and credit slips amounting to between \$30,000 and \$40,000 per year were issued and sold; that this affiant, one Charles Griffin, a saloon keeper, and one Charles Nies, a saloon keeper, and dealt in the cashing of such credit slips and that such credit slips were cashed by affiant and others at a discount of 25 per cent; that this affiant, Griffin, and Nies would each handle more than \$10,000 worth of credit slips per annum during the period from 1890 to 1900; that whenever said treasurer's orders or credit slips were redeemed by the treasurer of the Seneca Nation said W. C. Hoag did receive 10 per cent of the amount of said credit slips; in other words, this affiant and others made a profit of 15 per cent and said W. C. Hoag made a profit of 10 per cent on the aggregate amount of said credit slips.

Affiant further says that the subdivisions in the city of Salamanca were acreage of from 5 to 100 acres. I know of some 30 to 40 subdivisions; these subdivisions or acreages were leased by the acre at farm prices, \$1 to \$3, then subdivided into lots, and new homes built on same, costing from \$10,000 to \$25,000. Some one is receiving from \$5 to \$10 per lot and each acre has been cut into from six to eight lots.

The difference of from \$40 to \$75 per acre should have gone into the treasury of the Seneca Nation. This for a period of several years last past, as this land has passed out of the acreage class. One acreage plot now owned, and so far several years by late A. T. Fancher, has been converted into beautiful farm for the breeding of high-class horses and cattle. The buildings thereon run to about \$75,000. This tract is within the limits of Salamanca and is one of the cheap leased acreages. There are several others, one I have in mind comprising about 75 acres within the city, subdivided, and some 300 lots sold and dwellings all built and property otherwise improved. Why should not the Seneca Indians profit by this increase?

It was suggested at the time of the drawing up of the new lease for 99 years that in the future there should be but 25-year leases and a joint committee from the Seneca council and the citizens' committee which should meet and equalize the rentals on lots and lands subdivided and taken into the city or corporate limits. But this was voted down and never put into the lease, to the detriment and disadvantage of the Seneca Indians.

The Erie Railroad lease should be looked into; it acquired and reclaimed swamp lands and made a switching yard of some 40 tracks all off of reservation land.

Also under the 25-year revision plan the single lots leased at from \$1 to \$3 were too cheap at the beginning and far too small for the values of to-day.

As to leased lands for gas and oil: I know of other leases on reservation lands that were overridden by the Finance Oil Co. and taken possession of where they never paid owner or Indian one dollar. These were allowed to sue and obtain judgment, in one case for the sum of \$20,000, and this same lease is producing gas to-day. Monies from the same are still being collected by this corporation. Deponent is of the opinion that all gas and oil wells should be checked up from the making of the lease, both as to present owner or beneficiary and the former owner the Seneca Nation. Income accounts of all companies operating on said reservations should be subpoenaed and examined.

JOHN J. MCKAY.

Subscribed and sworn to before me this 13th day of June, 1930.

ROBERT M. CODD, JR.,
Commissioner of Deeds, Buffalo, N. Y.

STATE OF NEW YORK,
County of Erie, City of Buffalo, ss:

John L. Snyder, being first duly sworn according to law, deposes and says: That he is a Seneca Indian, residing at Irving, N. Y., within the boundaries of the Cattaraugus Reservation.

That he is 52 years of age and has been in close touch with the affairs of the Seneca Nation of Indians on the Cattaraugus, Allegheny, and Oil Springs

Reservations, in the State of New York, continuously for about 30 years last past.

That he is familiar with the manner of the procurement and leasing of oil and gas wells on the said Cattaraugus and Allegany Reservations.

That some time prior to the year 1909 this affiant, together with Henry Moench, George Moench, and Charles Ubel procured certain lease for the development of gas and oil on the Cattaraugus Reservation.

That the purpose of securing the said lease was to develop the gas field on the Cattaraugus Reservation. Affiant's associates had sufficient money and were well able to prosecute the work for such development.

That upon securing said lease from the councilors of the Seneca Nation affiant came to Washington for the purpose of obtaining the ratification and confirmation from Congress of said lease.

That in order to have said lease confirmed it became and was necessary for affiant to approach Hon. E. B. Vreeland, the Congressman from the congressional district of which Cattaraugus County is a part.

That after affiant spent several weeks in Washington in an attempt to have a bill introduced for such confirmation, said Vreeland refused to introduce such a bill. Thereupon affiant returned to his home in Cattaraugus County.

That sometime after affiant returned to his home, one Emmons J. Gardner, who was acting for one A. T. Fancher, called upon affiant and suggested that a new lease be secured from the councilors of the Seneca Nation, naming Dr. Edward Bolard as lessee.

That if such a lease could be secured from the said councilors, affiant was told that said E. B. Vreeland would present a bill to Congress for ratification.

That shortly thereafter and in compliance with the suggestion and agreement made with Mr. Emmons J. Gardner, affiant procured a lease from the councilors of the Seneca Nation, in which Dr. Edward Bolard was named as lessee, and at which time W. C. Hoag and Grant Patterson were officers and members of the council of the Seneca Nation. Affiant's information and belief is that in order to procure favorable terms in said lease Mr. A. T. Fancher, through Mr. Emmons J. Gardner, Dr. Edward Bolard, or through some other representative, paid to said Hoag and Patterson a certain sum of money in cash and stipulated sum to be paid each month during the life of said lease for their influence used on Fancher's behalf.

That affiant's information and belief is that said Hoag and Patterson each received said sum of \$300 monthly up and to the time of their deaths and since the deaths of said Hoag and Patterson, one of Hoag's heirs has received said sum monthly up and to the time of the death of A. T. Fancher, who died about a month ago.

That after the new lease had been executed by the said councilors in the name of Edward Bolard, said A. T. Fancher did then present the lease to Congress through said Congressman Vreeland for ratification and confirmation.

That when said lease had so been executed, ratified, and confirmed by Congress, said A. T. Fancher did agree to and with affiant that a corporation would be organized which afterwards became known as the Reservation Gas Co.

That thereupon said corporation was organized with an aggregate capital stock of 1,000 shares, par value, being unknown to affiant.

That 435 out of the said 1,000 shares were issued in the name of said Edward Bolard, who was acting as a dummy for said A. T. Fancher.

That out of said 435 shares, which were issued to said Bolard, said Fancher promised and agreed that this affiant should receive 125 shares, or one-eighth interest.

That thereafter the said Reservation Gas Co., in consideration of the Finance Oil Co. furnish the finances for the development of said project, etc., transferred one-half of its interest in and to said lease to the said Finance Oil Co.

That his said portion of 125 shares, or one-eighth interest, Fancher promised and agreed would be issued and delivered to affiant, but that such issuance and delivery has never been made.

That the said Fancher then and there promised and agreed that he would give this affiant some evidence in writing showing that he would be entitled to the 125 shares, or one-eighth interest of stock in the Reservation Gas Co. as soon as the lease had been authorized and executed by the Seneca councilors.

That thereafter, and upon the authorization and execution of said lease by the councilors, affiant, in accordance with said agreement and promise, requested said Fancher to give affiant such evidence of ownership, but said

Fancher then told affiant that he would do so when the said lease was ratified and approved by an act of Congress.

The said lease was subsequently ratified and approved by Congress (by the act of February 21, 1911, 36 Stat. L. 927) and when such ratification and approval had been made by Congress this affiant again requested said Fancher to comply with his promise and agreement to give him some evidence in writing that affiant was entitled to and was the owner of one-eighth interest in said corporation, or 125 shares of its capital stock, to which said Fancher replied that he nor the said Reservation Gas Co. had fully complied with the preliminary terms and provisions of said lease, and therefore said lease was not **as yet, or at that time, legally acquired, and that said lease, among other things, provided that the lessee must drill and complete three test wells, and that when these three test wells were so completed this affiant would receive such evidence in writing which would show ownership in and to one-eighth interest or shares in said corporation.**

That thereafter, and after at least three test wells had been drilled, completed, and were producing, said Fancher still continued to stay affiant off with promises and further excuses, although this affiant made persistent demands for his said interest.

That one Charles M. L. Ashby, of Erie County, N. Y., had on May 29, 1908 (35 Stat. 444), and prior to the issuance and ratification of the said Bolard lease, secured a certain lease from the Seneca Nation of Indians for lands situated within the Cattaraugus Reservation, which lease included certain mineral rights, which were in conflict with the lands embraced in said Bolard lease;

That in the settlement with said Ashby said Fancher promised and agreed to give said Ashby one-eighth interest in and to the said Bolard lease.

That subsequent to the financial arrangement which the Reservation Gas Co. entered into with the Finance Oil Co. for the financing of its project on the Cattaraugus Reservation said Ashby received one-sixteenth interest or share of the stock of said Reservation Gas Co. instead of one-eighth interest, as said Fancher had previously agreed to give to said Ashby.

That thereafter, and about the year 1916, said Ashby commenced an action against said Fancher in the Supreme Court of Erie County, N. Y., for the recovery of an additional one-sixteenth interest in said corporation, the Reservation Gas Co.

That said case was tried without a jury in the Supreme Court of Erie County, N. Y., before Hon. Charles A. Pooley, judge presiding, who rendered his decision decreeing that said Ashby was entitled to the additional one-sixteenth or the total one-eighth part of said shares of stock of said Reservation Gas Co., as originally agreed to.

That the said case was appealed to the appellate division of the Supreme Court of the State of New York and there reversed.

That about the time of the said trial, 1918, and rendition of judgment in the said case of Ashby *v.* Fancher, in the Supreme Court of Erie County, N. Y., this affiant commenced an action against said A. T. Fancher for the recovery of his share or interest in the said Reservation Gas Co., demanding the issuance and delivery to him of the said 125 shares of the capital stock of the said Reservation Gas Co.

That when said action of this affiant against Fancher, defendant, was called for trial in the Supreme Court of Cattaraugus County, N. Y., affiant and his attorney, through some misunderstanding or inadvertence, failed to appear, whereupon said defendant, through his attorney, requested the dismissal of said action on its merits, which request was then and there granted by the judge presiding, but that thereafter affiant, through his attorney, moved the court to correct the record so as to read that said case was dismissed "without prejudice," which motion was promptly granted by said court.

That thereafter, and while affiant was preparing and arranging to renew his said action in said court against said Fancher, the said A. T. Fancher on more than one occasion came to affiant's home for the purpose of discussing and arranging for a settlement of said suit.

That on one of these occasions, said Fancher, in the course of his plea for settlement, stated, in substance, "We have been good friends and there is no reason why we shouldn't be again. Our trouble, of course, is over some differences, and if it is money that you want, I have it, and if we just quit fighting you will get just as much as you will the other way."

That on such and similar statements, pleas, persuasions, and promises by said Fancher and by said Fancher placing \$500 in bills in affiant's hand, urging and insisting that affiant accept same as an initial payment, and said Fancher then and there promised and agreed that this affiant would receive his one-eighth share or interest in said Reservation Gas Co. if affiant would abandon his suit against him, the said Fancher would continue to pay affiant a monthly sum which would at least equal the amount of dividends which said one-eighth interest in said corporation would earn.

That this affiant has continued to receive monthly payments of an average of \$100 up to the time of said Fancher's death, which occurred some time in the month of April, 1930, which said payments have been made to affiant in the form of a personal check indorsed by said A. T. Fancher, drawn on the Salamanca Trust Co., of Salamanca, N. Y.

That affiant believes that the Seneca Nation was defrauded and is being defrauded out of large sums of money by reason of said transactions hereinbefore set forth.

That affiant requests that the subcommittee of the Senate Committee on Indian Affairs now making a survey of conditions among the Indians of the United States make a thorough investigation of this matter.

That the only interest the affiant has in this matter is to see that justice be done in the premises.

That said Dr. Edward Bolard testified under oath in the case of *Ashby v. Fancher* in the trial of that case in the supreme court of Erie County, some time during the years 1916 or 1917, that said Bolard had paid out about \$7,000 in cash to some of the members of the councilors in order to secure the approval of said lease from said councilors.

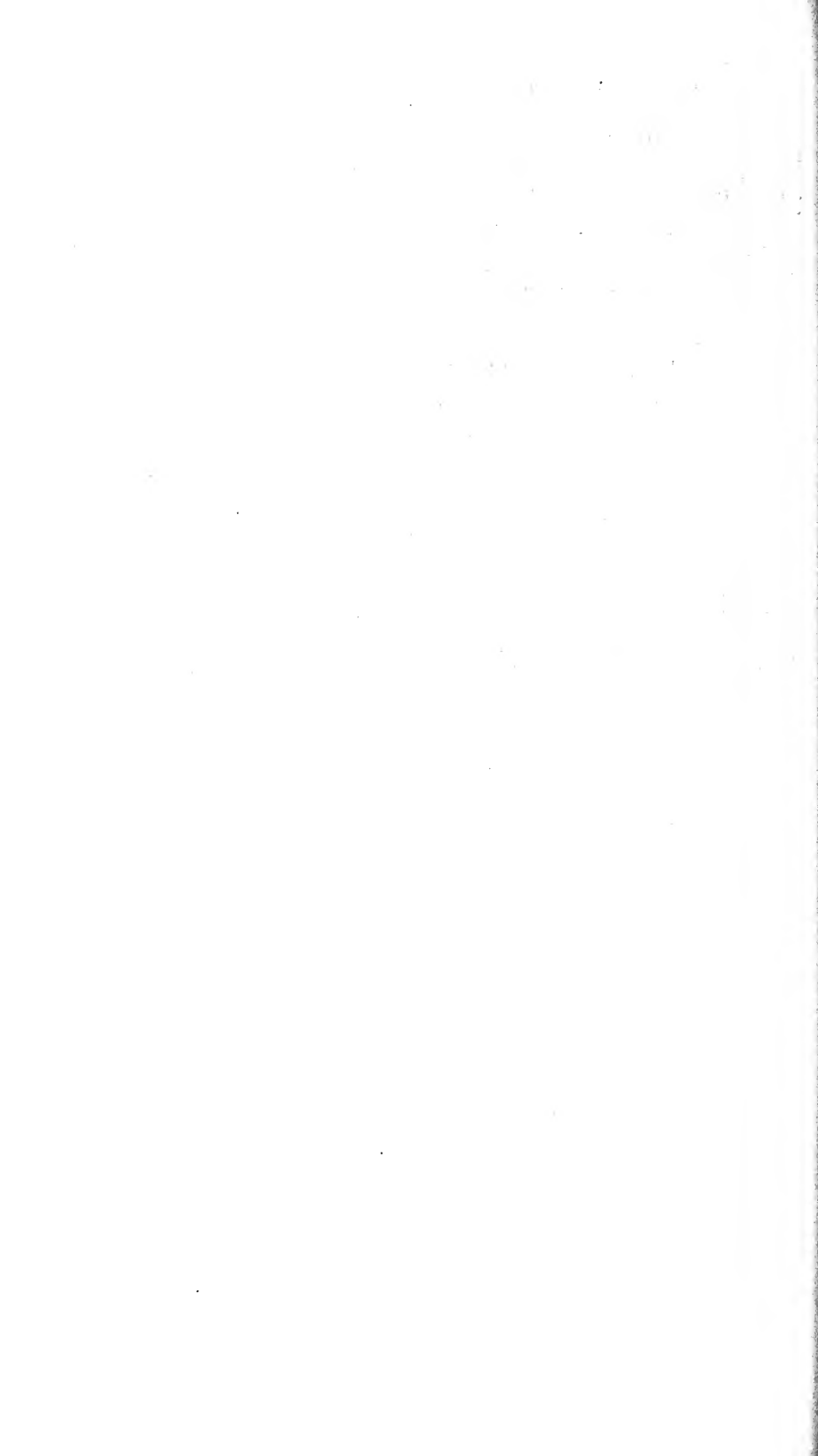
That said Bolard at said time and place testified under oath that he had purchased affiant's interest in and to said lease.

That affiant further states that said testimony of said Bolard in respect to the purchasing of affiant's interest in said lease was not at that time or is now true.

JOHN L. SNYDER.

Subscribed and sworn to before me this 7th day of June, 1930.

ROBERT M. CODD, Jr.,
Commissioner of Trusts, Buffalo, N. Y.



SURVEY OF CONDITIONS OF THE INDIANS IN THE UNITED STATES

TUESDAY, NOVEMBER 26, 1929

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
Syracuse, N. Y.

The subcommittee met, pursuant to previous notice at 10.30 o'clock a. m., in the council chamber of the city hall.

Present: Senators Frazier (chairman) and Wheeler.

Present also: Hon. Clarence E. Hancock, Member of Congress; Dr. John W. Le Seur, representing Senator Copeland; Hon. Charles G. Hanna, mayor of Syracuse; Glenn D. Holmes, chief engineer Syracuse Intercepting Sewer Board; H. Duane Bruce, corporation counsel of the city of Syracuse; H. D. Brewster; Frank J. Gregg; Henry S. Manley, deputy attorney general of the State of New York; Richard A. Wallace, assistant director department of social welfare of the State of New York; Albert Grorud, special assistant to the committee; and Nelson A. Mason, secretary of the committee.

The CHAIRMAN. The hearing will come to order. This hearing is called under authority of Senate Resolution 79, which authorizes the Committee on Indian Affairs of the Senate to hold hearings in regard to the Indian situation on various reservations throughout the United States. We want to get information as to the general conditions of the Onondaga Indians, members of the Six Nations, here at Syracuse. We shall be glad to hear any reasonable complaints or statements as to general conditions existing among the Indians here, so that we can find out just what the situation is, and then report back to our full committee of the Senate and make recommendations as to legislation or any changes that may be necessary to better the conditions of the American Indian.

Congressman Hancock is here and we would be glad to have the Congressman sit in with us and ask any questions he desires. We also invited your Senators from New York. Senator Copeland is very much interested in the welfare of the Indians and expected to be here to-day, but he is represented by Doctor Le Seur who was also with us yesterday down at Salamanca.

Our first witness will be Joshua Jones.

STATEMENT OF JOSHUA JONES, NEDROW, N. Y.

The CHAIRMAN. Your name is Joshua Jones?

Mr. JONES. Yes, sir.

The CHAIRMAN. What is your official position with the Indians here?

Mr. JONES. Head chief of the Six Nations.

The CHAIRMAN. What is your post-office address?

Mr. JONES. Nedrow, N. Y.

The CHAIRMAN. I think perhaps the best way is for you to make a general statement. Make it as brief as possible.

Senator WHEELER. How long have you been head chief of the Indians here?

Mr. JONES. Since 1928.

Senator WHEELER. What do you mean by being "head chief"? Are you just head of this tribe, or of all the Six Nations?

Mr. JONES. All the Six Nations.

Senator WHEELER. How were you elected?

Mr. JONES. Condolence mother.

Senator WHEELER. You were selected by the condolence mother?

Mr. JONES. Yes, sir.

Senator WHEELER. Now, you Indians have some complaints to make as to the treatment received at the hands of the Government, or at the hands of the State of New York, or at the hands of the city of Syracuse? If you have, tell us what they are.

Mr. JONES. We have.

Senator WHEELER. Let me ask you this: What about this flood-control situation?

Mr. JONES. We don't want any dam put on the reservation.

Senator WHEELER. You don't want a dam put on the reservation?

Mr. JONES. No, sir.

Senator WHEELER. Who is trying to put a dam on the reservation; and what about it?

Mr. JONES. The city officials and the State officials.

Senator WHEELER. Where do they propose to put up the dam? Senator Frazier and myself don't know anything about it, and we want to hear the story.

Mr. JONES. They were going to put up two dams down here on the reservation.

Senator WHEELER. How far is your reservation from the city?

Mr. JONES. About 8 miles.

Senator WHEELER. How big is your reservation?

Mr. JONES. Two miles by four miles.

Senator WHEELER. How many people are there living on the reservation?

Mr. JONES. Nearly 500 altogether.

Senator WHEELER. Are most of the Indians living down there like yourself—quarter-breeds, half-breeds or eighth-breeds?

Mr. JONES. Some of them; yes.

Senator WHEELER. Are there any full-blooded Indians living down there any more?

Mr. JONES. There might be a few.

Senator WHEELER. Now, where do they propose to put the dam?

Mr. JONES. One near the south end of the reservation, and one in the north end.

Senator WHEELER. What is the purpose of putting the dam there?

Mr. JONES. That I don't know; to drown out the Indians, I suppose.

Senator WHEELER. Is the dam supposed to be on the reservation itself?

- Mr. JONES. On the reservation itself, yes.
- Senator WHEELER. Are they proposing to take the whole of the reservation; flooding the whole of the reservation?
- Mr. JONES. The whole of the flats, where it is flat.
- Senator WHEELER. Is the reservation in a canyon?
- Mr. JONES. Valley.
- Senator WHEELER. The Indians don't want that done?
- Mr. JONES. No, sir.
- Senator WHEELER. Would they have any objection to it being done provided they were paid what their property was worth?
- Mr. JONES. Yes, sir; I think they would.
- Senator WHEELER. They would still object to it, would they?
- Mr. JONES. Yes, sir.
- Senator WHEELER. The Indians built houses out there, I presume?
- Mr. JONES. Yes, sir.
- Senator WHEELER. The Indians don't live here as they do in the West—in tepees?
- Mr. JONES. No, sir.
- Senator WHEELER. And you have stores and buildings there?
- Mr. JONES. Yes, sir.
- Senator WHEELER. Do the Indians pay taxes down there on their property?
- Mr. JONES. No, sir.
- Senator WHEELER. There are no taxes paid to the city, to the county, or to the State?
- Mr. JONES. We are not supposed to pay such taxes.
- The CHAIRMAN. Is this reservation owned by the tribe or by individual allotments?
- Mr. JONES. By the tribe.
- The CHAIRMAN. Owned in common by the tribe?
- Mr. JONES. Yes, sir.
- Senator WHEELER. It hasn't been allotted to individual Indians?
- Mr. JONES. No, sir.
- Senator WHEELER. What income do the Indians derive on the reservation on their property? Are there any leases on the reservation?
- Mr. JONES. Yes, sir.
- Senator WHEELER. What leases do they have down there? What property have they leased, and for what purpose?
- Mr. JONES. Quarry.
- Senator WHEELER. Sand pit?
- Mr. JONES. Sand pit and stone quarry; yes, sir.
- Senator WHEELER. How much money do they derive from the quarry?
- Mr. JONES. \$200 a year.
- Senator WHEELER. \$200 a year?
- Mr. JONES. Yes, sir.
- Senator WHEELER. What is it, a rock quarry?
- Mr. JONES. Limestone quarry.
- Senator WHEELER. Who leases that?
- Mr. JONES. Jones, a fellow by the name of Dick Jones.
- Senator WHEELER. When was that leased to him?
- Mr. JONES. That I can't recall.

Senator WHEELER. For how long a time was it leased to him, if you know?

Mr. JONES. I think it was for 10 years.

Senator WHEELER. Who leased it to him?

Mr. JONES. Mr. Thomas.

Senator WHEELER. Who is Mr. Thomas?

Mr. JONES. George Thomas.

Senator WHEELER. Who is Mr. Thomas?

Mr. JONES. An Indian.

Senator WHEELER. Was he chief of the tribe when he leased it to him?

Mr. JONES. Yes, sir.

Senator WHEELER. And from that the tribe receives \$200 a year?

Mr. JONES. Yes, sir.

Senator WHEELER. Now, that sand pit, is that leased?

Mr. JONES. The sand pit?

Senator WHEELER. Yes; the sand pit?

Mr. JONES. Yes, that is leased, too.

Senator WHEELER. What amount of money do you derive from the sand pit?

Mr. JONES. We were to get two-thirds; one third to the nation and one-third to the owner.

Senator WHEELER. How much do you get from it?

Mr. JONES. So much a yard.

The CHAIRMAN. How much does it amount to a year, approximately?

Mr. JONES. Well, I can't say.

Senator WHEELER. Don't you know, or can't you get the figures on it?

Mr. JONES. We have a treasurer to look after that.

Senator WHEELER. That is paid into the Treasury and you don't know what the figures are?

Mr. JONES. The treasurer and the secretary should know that.

Senator WHEELER. It has been suggested to me that we ask you about the salt. Have you got a pipe line across the reservation?

Mr. JONES. Yes; we have.

Senator WHEELER. What kind of a pipe line?

Mr. JONES. Brine for salt.

Senator WHEELER. Do you get any revenue from that?

Mr. JONES. No; we don't.

Senator WHEELER. Why not?

Mr. JONES. That I don't know. It has been there a good many years. I don't know about that.

Senator WHEELER. Who does it belong to?

Mr. JONES. The Solvay Process Co.

Senator WHEELER. That has been there for how long?

Mr. JONES. Well, I can't just say—over 30 years, I guess.

Senator WHEELER. Are there any railroads across the reservation?

Mr. JONES. No, sir.

Senator WHEELER. Are there any other sources on the reservation that you derive any benefits from?

Mr. JONES. No, sir.

Senator WHEELER. How do the Indians live down there? What do they make a living at?

Mr. JONES. Working out; some farming.

Senator WHEELER. Do the children attend public schools?

Mr. JONES. Yes, sir.

Senator WHEELER. How many children are there down there on the reservation attending the public schools?

Mr. JONES. I don't know just how many there are.

The CHAIRMAN. Do all the children of school age attend school?

Mr. JONES. Yes, sir.

Senator WHEELER. Do they pay any tuition at all to the State for attending school, or are they permitted to attend free of charge, and are they city schools, or Government schools, or are they State schools?

Mr. JONES. Outside the reservation?

Senator WHEELER. No; on the reservation. Who puts them there?

Mr. JONES. State school.

Senator WHEELER. The State finances the school entirely, does it?

Mr. JONES. They claim they do.

The CHAIRMAN. Is it a good school?

Mr. JONES. Yes, sir.

The CHAIRMAN. How many grades are there?

Mr. JONES. Eight grades.

The CHAIRMAN. Where do they go to school after finishing the eighth grade on the reservation?

Mr. JONES. Some go to high school.

The CHAIRMAN. Do they have to pay tuition if they come in to the city high schools here?

Mr. JONES. I don't know about that. I don't know but what they do.

Senator WHEELER. How is your agent down there selected?

Mr. JONES. He is selected by the State of New York.

Senator WHEELER. Is he paid by the State, or is he paid out of the Indian funds?

Mr. JONES. He is paid by the State \$200 a year and he gets 4 per cent of the annuity money.

Senator WHEELER. What is your annuity money?

Mr. JONES. They claim the State appropriates some money each year.

Senator WHEELER. The State appropriates some money each year for the benefit of the Indians?

Mr. JONES. Yes, sir.

Senator WHEELER. How much is that, do you know?

Mr. JONES. I think it is something like \$2,500, isn't it?

Senator WHEELER. You don't know how it is that the State comes to appropriate that money for you?

Mr. JONES. No, sir.

Senator WHEELER. Well, we can probably get that from some other witness. What does your agent do out there? What is he supposed to do?

Mr. JONES. He distributes the money.

Senator WHEELER. All he has to do is just distribute the money appropriated by the State?

Mr. JONES. Yes, sir.

Senator WHEELER. Pay it out to the different Indians?

Mr. JONES. Yes, sir; to the Onondaga Indians.

Senator WHEELER. I think that is all so far as this witness is concerned.

The CHAIRMAN. Does Mr. Harrison, the superintendent down at the Seneca Nation, representing the Interior Department at Washington, ever come up here?

Mr. JONES. Oh, yes, sir.

The CHAIRMAN. How often does he come?

Mr. JONES. Every year.

The CHAIRMAN. Once a year?

Mr. JONES. Yes, sir.

The CHAIRMAN. What does he do?

Mr. JONES. Distributes goods—cloth.

The CHAIRMAN. Each Indian gets a certain amount of cloth each year?

Mr. JONES. Yes, sir.

The CHAIRMAN. Do you get any annuity check from Superintendent Harrison?

Mr. JONES. No, sir.

The CHAIRMAN. You don't get anything from the Government at all, then; is that the idea?

Mr. JONES. That is the idea.

The CHAIRMAN. The annuity check you get comes from the State?

Mr. JONES. Yes, sir. That is why we don't understand it. The Government appropriates a big sum of money for the Indians and we are supposed to get the interest each year. That is where Mr. Harrison is supposed to distribute that.

The CHAIRMAN. Do you understand that there is money to the credit of the Six Nations at Washington in the Interior Department?

Mr. JONES. Yes, sir.

The CHAIRMAN. Do you know how much?

Mr. JONES. No, sir.

The CHAIRMAN. What would be the effect upon your reservation if these dams are put in?

Mr. JONES. The effect would be to spoil all the fertile land.

The CHAIRMAN. Do you mean that the land would be flooded?

Mr. JONES. Yes, sir.

The CHAIRMAN. Would it mean that the Indians would have to move out of their homes and move out of the valley there?

Mr. JONES. Certainly. There are quite a few houses around there.

The CHAIRMAN. How long have you Indians lived on this reservation?

Mr. JONES. I was born there and have lived there ever since.

Senator WHEELER. How long have the Indians been there? They have been there forever?

Mr. JONES. They have been there forever.

The CHAIRMAN. For generations?

Mr. JONES. Yes, sir; for generations.

The CHAIRMAN. Is there any other statement you want to make now to the committee?

Mr. JONES. That is all. We don't want any dam there.

Senator WHEELER. Why would you object if the State paid you or the city paid you liberally for your property? Why would you object to it being taken if they furnished you other places just as

good or perhaps better? Suppose they would arrange for another place.

Mr. JONES. They don't want to do that.

Senator WHEELER. Why not?

Mr. JONES. Where would the Indians go, if they buy all the lands? We have very little land left. We can't travel on the road our whole lifetime.

The CHAIRMAN. Well, of course, if they paid you for your property there they would have to pay enough so that you could buy property some place else.

Mr. JONES. And then we would have to pay taxes.

Senator WHEELER. Then you would have to pay taxes.

Mr. JONES. Yes, sir.

Senator WHEELER. And you don't want to give up your rights because of the fact that you have your homes there, and you don't want to pay taxes because the property is owned by the tribe?

Mr. JONES. Yes, sir.

The CHAIRMAN. Do you Indians vote?

Mr. JONES. No, sir.

The CHAIRMAN. None of you Indians vote at all?

Mr. JONES. I don't know; there may be some who vote; I can't tell.

Senator WHEELER. Why don't you vote?

Mr. JONES. We are not supposed to.

Senator WHEELER. Why aren't you supposed to vote?

Mr. JONES. We are a separate nation.

Senator WHEELER. That doesn't make any difference.

Mr. JONES. We have no right to vote.

Senator WHEELER. You have a perfect right to vote. As a matter of fact, you ought to vote. Congress has passed a law permitting you to vote and to become citizens of the United States, and you wouldn't lose any of your rights.

The CHAIRMAN. Tribal rights.

Senator WHEELER. Tribal rights—you can't lose any of your rights by voting. And whoever tells you anything to the contrary doesn't know what he is talking about.

Mr. JONES. When a foreigner comes here to this country he doesn't vote until he is a citizen of the United States.

Senator WHEELER. Yes; but you are citizens of the United States and the Congress has passed a law permitting you to vote. And it could pass a law permitting any foreigner who came here to vote, but it hasn't seen fit to do that. They have said to you Indians that you could vote. You are one of the chiefs down there. How is the business on your reservation conducted?

Mr. JONES. We still are on the outs.

Senator WHEELER. You say you still are on the outs.

Mr. JONES. Yes; we can't get together.

Senator WHEELER. Why can't you get together?

Mr. JONES. I don't know.

The CHAIRMAN. You mean that the Indians can't agree among themselves?

Mr. JONES. No, sir.

Senator WHEELER. How many factions have you got?

Mr. JONES. There are 200 Indians down there. You mean Onondaga Indians?

Senator WHEELER. Yes.

Mr. JONES. Two or three hundred.

The CHAIRMAN. Have you two factions in your group?

Mr. JONES. Yes.

Senator WHEELER. You have a council there that signs leases, haven't you?

Mr. JONES. No—well, we do have, but the agent does the leasing.

Senator WHEELER. The agent does the leasing?

Mr. JONES. Yes.

The CHAIRMAN. He has no right to do so.

Senator WHEELER. Does the council pass upon the signing of the leases?

Mr. JONES. Well, they did for a while, then it died out.

Senator WHEELER. Before any lease is signed is it submitted to the department in Washington?

Mr. JONES. No, sir; not that I know of.

Senator WHEELER. That is all.

Mr. BREWSTER. Mr. Chairman, my name is H. D. Brewster. I am corporation counsel of the city of Syracuse. Before this witness leaves the stand might I suggest that he be asked whether they have had any meetings of the Indians and have considered this question of flood control and dams on the Indian reservation?

Senator WHEELER. Ask any question you want to.

Mr. BREWSTER. Because I understood him to say that the Indians didn't want it even if they were paid for the land. Would it be appropriate for me to ask the question?

The CHAIRMAN. What about that, Mr. Jones? Have you had meetings of your Indians to decide what they want to do about this proposed dam?

Mr. JONES. Yes; sure.

The CHAIRMAN. Was it a joint meeting of the chiefs?

Mr. JONES. Joint meeting of the chiefs.

The CHAIRMAN. Of how many chiefs?

Mr. JONES. Seven or eight.

The CHAIRMAN. What did they decide about it?

Mr. JONES. They didn't want to do it.

The CHAIRMAN. Was that decision unanimous among the chiefs?

Mr. JONES. Yes, sir.

The CHAIRMAN. Was there a meeting of the 200 Indians in addition to the meeting of the chiefs?

Mr. JONES. No, we can't get together.

Mr. BREWSTER. Can you give the names of the chiefs?

Mr. JONES. Andrew Gibson, Emmet Lyons, Jesse Lyons, John White, Wilson Johnson, jr., Oocas Schenandoah, and Frank Isaacs. That is all I can think of.

The CHAIRMAN. That would be eight, counting yourself.

Mr. JONES. Yes, counting myself.

Senator WHEELER. When was that meeting held?

Mr. JONES. Last night.

Senator WHEELER. That meeting was held last night?

Mr. JONES. Yes, sir.

Mr. BREWSTER. There wasn't any one there at that time from the city of Syracuse officially to explain to you what was to be done?

Mr. JONES. No.

Mr. BREWSTER. How much land do you understand is to be taken by this flood prevention?

Mr. JONES. This lower end will cover over 600 acres.

Mr. BREWSTER. Over 600 acres?

Mr. JONES. Yes, sir. The upper dam will cover over 400 acres.

Mr. BREWSTER. That was your understanding and what was told at that meeting?

Mr. JONES. No, sir; I had been up here to see Mr. Holmes.

Mr. BREWSTER. You talked with Mr. Holmes?

Mr. JONES. Yes, sir.

Mr. BREWSTER. And Mr. Holmes is the engineer of the Syracuse intercepting sewer board?

Mr. JONES. Yes, sir.

Mr. BREWSTER. You understood that it would not affect the land, what is now the Indian village, where most of the Indians live?

Mr. JONES. Oh, yes.

Mr. BREWSTER. That that would not be flooded?

Mr. JONES. Oh, yes, it will.

Senator WHEELER. Do you understand that it would be flooded or would not be?

Mr. JONES. Would be.

Mr. BREWSTER. You understood that what is now known as the Indian village, where most of your Indians reside, would be flooded by these dams?

Mr. JONES. Yes, sir.

Mr. BREWSTER. And was that one reason why you decided that you weren't in favor of it?

Mr. JONES. Yes, sir.

Mr. BREWSTER. If it was not going to take the houses where the Indians live, would that change your mind?

Mr. JONES. No, sir.

Mr. BREWSTER. It wouldn't make any difference whether the program includes taking the houses or not?

Mr. JONES. No. We would like to remain there as long as we live.

Mr. BREWSTER. But suppose you could still live there, suppose this wouldn't interfere with the Indians living in the reservation, would that make any difference?

Mr. JONES. It has got to interfere. That water is going to come up there.

Mr. BREWSTER. I see. But if it wasn't going to interfere, that would make some difference in your mind?

Mr. JONES. How could you fix it without interfering?

Mr. BREWSTER. I don't know; but assuming that it wouldn't interfere there.

Mr. JONES. There is no doubt that it would interfere.

Mr. BREWSTER. But it was your understanding at the meeting that it would interfere with the Indian land on the reservation?

Mr. JONES. Yes, sir.

The CHAIRMAN. Is there any other statement that you want to make?

Mr. JONES. No.

The CHAIRMAN. Have you talked with the individual Indians, the men and women of your people there?

Mr. JONES. Yes, sir.

The CHAIRMAN. What general impression did you get from them in talking about this situation?

Mr. JONES. They were all opposed to it, I think.

The CHAIRMAN. You think they were all opposed to it?

Mr. JONES. Yes, sir; all that I talked with.

The CHAIRMAN. You talked with quite a lot of them, did you?

Mr. JONES. Yes, sir.

The CHAIRMAN. All right. That is all. The next witness will be Mr. Livingstone Crouse.

STATEMENT OF LIVINGSTONE CROUSE, NEDROW, N. Y.

The CHAIRMAN. Your name is Livingstone Crouse?

Mr. CROUSE. Yes, sir.

The CHAIRMAN. And you reside down here on the reservation?

Mr. CROUSE. Yes, sir.

The CHAIRMAN. How long have you lived here?

Mr. CROUSE. About 40 years.

The CHAIRMAN. Are you a member of the council or a chief at this time?

Mr. CROUSE. Yes, sir; a member of the council.

The CHAIRMAN. What is your impression of this proposed flood-control project that the city of Syracuse and the State apparently want to put in here?

Mr. CROUSE. Well, my impression is that the city wants to get control of our land, chiefly. The city of Syracuse now is adjacent to our reservation, practically within about 200 yards.

The CHAIRMAN. The city limits extend practically to within 200 yards of your reservation?

Mr. CROUSE. Yes, sir. And just along the valley there to the city limits there are very low banks, and usually in the spring of the year the waters would rush down through the reservation into the city, and, of course, just at the edge of the city, along the line, that creek should be dredged there. Now, part of that is dredged and has a concrete bottom and there is no damage being done there. Beyond that to the reservation there is a very crooked ravine. It is a small ravine, but it sets crooked so that it stops the flood and the water kind of gathers, and separates some of those people along the borders of the city. It backs up against their houses—only a few houses. Now, what they are up to is to put up a dam on our reservation.

The CHAIRMAN. To keep this water from backing up on the city property?

Mr. CROUSE. Yes, sir. I suppose they want to let the water out, a certain amount of it, but there would be a plot of land acquired on which there would be standing water there and it would be unfit for any human life.

The CHAIRMAN. It would be unfit for anyone to live near it?

Mr. CROUSE. Absolutely.

Senator WHEELER. Why?

Mr. CROUSE. Because that water would gather there.

The CHAIRMAN. You mean it would be stagnant?

Mr. CROUSE. It would be stagnant water standing there, and they would only gradually run so much off, so there would be no flood.

Senator WHEELER. What is the purpose of having a dam there?

Mr. CROUSE. Simply to back up the water.

The CHAIRMAN. Is the reservoir to keep the water from flooding?

Mr. CROUSE. Yes, sir.

The CHAIRMAN. How much of your reservation do you think would be taken if they carried out their program?

Mr. CROUSE. Practically the best part of our land would be taken up, because we live in the valley. Outside of that it would be woods, rocks and hills.

The CHAIRMAN. Is this Indian village where your people live in the valley?

Mr. CROUSE. Yes, sir.

Doctor LESEUR. Is there any swamp land there?

Mr. CROUSE. Yes, there is swamp land there.

Doctor LESEUR. How many acres, would you say?

Mr. CROUSE. I couldn't say, I never measured it.

Doctor LESEUR. Just a guess, it isn't important.

Mr. CROUSE. I don't know—very few acres, I believe.

The CHAIRMAN. It is right along the stream, is it?

Mr. CROUSE. Yes, sir.

Senator WHEELER. Could they build the dam any other place?

Mr. CROUSE. Absolutely. There is a better dam site right outside the reservation.

The CHAIRMAN. Further back?

Mr. CROUSE. Yes, sir; just outside the reservation. The forks of the two ravines come right in at the lower end of the reservation.

The CHAIRMAN. That dam site right outside the reservation that you speak of would be one of the best dam sites they could get to protect the city, do you think?

Mr. CROUSE. Absolutely. And it would protect them and prevent any floods. Of course, probably if they could get the Indians' land for a song, that would be the land they would take, and get rid of the Indians, besides.

Senator WHEELER. What effort has been made to get the land?

Mr. CROUSE. They just came and made a survey. The State agent came over and threatened some of the women folks and said the State was going to take it away from us. He said we had no right there and that they were going to survey it and have it condemned. Mr. Fenner, the State agent—he is not the Indian agent, he is the State agent—he protects the white men, not the Indians.

The CHAIRMAN. He looks after the white men?

Mr. CROUSE. If the white men want anything they go to him.

The CHAIRMAN. Who do the Indians go to if they want anything?

Mr. CROUSE. Fenner.

Senator WHEELER. What about the pipe line that goes across there?

Mr. CROUSE. This pipe line was probably leased years ago. Mr. Andrew Gibson was there at the time the lease was drawn up.

The CHAIRMAN. Do you understand that the Indians were paid when that pipe line was put across there?

Mr. CROUSE. Yes, they were bribed for voting and were given \$5 a head.

The CHAIRMAN. You mean, the council members were?

Mr. CROUSE. Yes; at that time. That was way back. And an agent by the name of Hines was there at the time.

The CHAIRMAN. The State agent?

Mr. CROUSE. The State agent, who came to these Indians. As I said a moment ago, if any white men want anything they go to the agent. And he came to see if he could carry this lease through. He got the lease for them. He came up to these Indians, these chiefs, and got them together. They refused to have the pipe line go through, absolutely refused. They didn't want it. They held a meeting there all day long. Finally they had to light the lamps for the old men to see. Finally one of the chiefs was taken outside, and some of them were given \$5 per head for voting on it, and that was how the pipe line came about. They said that that pipe line would never destroy our property and that they were going to put it down four feet in the ground.

Senator WHEELER. Is that what the lease provides?

Mr. CROUSE. Yes; that was what the agent stated to these chiefs. They said it probably wouldn't interfere in any way with their rights, and wouldn't affect them.

The CHAIRMAN. Was there any written lease?

Mr. CROUSE. There was a lease, but it expired years ago, and it has never been kept up and the Indians have never received any compensation for years.

The CHAIRMAN. Is the pipe line buried in the ground?

Mr. CROUSE. Yes; it is in there now and the Indians are having trouble on account of it.

Senator WHEELER. Why?

Mr. CROUSE. Our fish are being killed by that. The pipe runs through the creek, and some of this creek runs almost with that pipe, you see.

The CHAIRMAN. And you think the pipe line leaks?

Mr. CROUSE. Absolutely. They are having trouble continuously. There is a gang there watching it. There is a watchman there watching all the time. It kills the grass and it kills the trees. I tried to raise some fruit trees, some apple trees, along the road and I couldn't raise them. Just as soon as the roots got down deep enough the trees died.

Senator WHEELER. What goes through this pipe line—brine?

Mr. CROUSE. Brine. It comes from the wells at Tully, just south of the reservation.

Senator WHEELER. What does that pipe line take it?

Mr. CROUSE. Right through the reservation into the city to the Solvay Process.

Senator WHEELER. What did they do about it when they ran it through white men's property?

Mr. CROUSE. The white men put up such a fight and caused them so much trouble that they had to buy out the white men's property. They had to pay such big fines in court. From the reservation up there are only a few individual owners, it is all owned by the Solvay Process.

The CHAIRMAN. Has there ever been a suit instituted on behalf of the Indians for damages?

Mr. CROUSE. No; we couldn't sue because they claim we couldn't prove these things, that we couldn't get to the bottom of these things exactly. I don't know how we can do it. Of course, I just came into the council a few years ago, but I have been agitating it.

The CHAIRMAN. How long have you been in the council?

Mr. CROUSE. I have been in the council now about five or six years.

The CHAIRMAN. Have you any attorneys representing you in that or any other case?

Mr. CROUSE. Yes; we have Oscar Brown as attorney for the council.

Senator WHEELER. Who employs him?

Mr. CROUSE. We employ him—the Onondaga Council.

Senator WHEELER. You say this lease that the Indians had there has expired?

Mr. CROUSE. It expired long ago.

The CHAIRMAN. And it has never been renewed?

Mr. CROUSE. It has never been renewed.

Senator WHEELER. Have you got a copy of the lease?

Mr. CROUSE. No; we haven't.

Senator WHEELER. Have you ever seen a copy of it?

Mr. CROUSE. No; I haven't. That is the reason I couldn't start action.

Senator WHEELER. Why do you say it has expired, then?

Mr. CROUSE. We receive no compensation whatsoever.

Senator WHEELER. Have you ever received compensation?

Mr. CROUSE. Yes, these men received compensation; and they paid so much to the council, I believe, in the early stages.

Senator WHEELER. Is there anybody here representing the Solvay Process Co.?

Mr. BRUCE. There will be somebody here this afternoon.

The CHAIRMAN. We would like to have some one here from the Solvay Process Co. Did the tribe get any money from the lease for this pipe line in the old days when the lease was let?

Mr. CROUSE. It was paid to the nation at the time, I believe—to the secretary and treasurer.

Senator WHEELER. How about these other leases that they have taken for the limestone quarry and sand pit?

Mr. CROUSE. Well, this quarry is held up by our agent, Mr. Fenner.

Senator WHEELER. How is it held up?

Mr. CROUSE. Mr. George Thomas, who drew up the lease to Dick Jones, is head chief of the six nations—

The CHAIRMAN (interrupting). At the present time, or was he a former head chief?

Mr. CROUSE. He is at the present time, absolutely.

The CHAIRMAN. I thought this man that just testified was the head chief.

Mr. CROUSE. He claims he is the so-called head chief. He is not the head chief at all, and never was. His condolence mother deposed him years ago.

Senator WHEELER. So you have two factions down there?

Mr. CROUSE. It became a faction, of course, owing to the fact that we started a suit against the State. The council was all together, all agreeable, they were as one, at one time. There was no disturbance, everything was lawful. Old man Jareus Pierce, who is dead now, the Indian who started this case, got these councils together. He wanted to sue the State, or to get them to agree to pay these Indians for the land wrongfully taken at that time.

Senator WHEELER. Taken by the city, you mean?

Mr. CROUSE. Taken by the city; yes. The Indians then came to a council meeting, and they were all as one; and the Oneidas, who migrated from Wisconsin, came to our rescue and financed this nation to go through. The Indians were better situated over there and they helped us collect money. At that time the Onondaga Council put up \$150, the Oneidas, of New York, put up \$150, and the Oneidas of Wisconsin put up \$150, and the Cayugas, and so on; and we entered into a contract. Now, we were flooded by the newspapers at that time, who were wondering what the Indians were going to do.

Senator WHEELER. You were not only flooded by water, but also flooded by newspaper men, too?

Mr. CROUSE. Yes, sir; we were flooded by the newspaper men, too. They wanted to know what was going on. Now, out of that the result was that some of these chiefs, like Jesse Lyon and Emmet Lyon, withdrew from the council and became a faction and started a group by themselves, agitating, and working with the newspaper men in Syracuse.

The CHAIRMAN. Against the Indians?

Mr. CROUSE. Against the Indians, and that has brought ruin to the Onondaga Reservation to-day.

Senator WHEELER. How about the sand pit?

Mr. CROUSE. About the sand pit, we went to work and renewed the lease. George Thomas made the lease with this Jones Cut Stone Co. Mr. Fenner said that the lease was not good because he didn't draw the lease, and prohibited Dick Jones from paying the royalty to the council. Dick Jones had been paying this money annually and directly to our treasurer.

The CHAIRMAN. How much does that amount to?

Mr. CROUSE. It amounts at least to \$200 per year, and there is a royalty on the crushed stone we were getting, which amounts to more, but, of course, he just recently started on that royalty basis.

The CHAIRMAN. It amounts to a little more than \$200 a year?

Mr. CROUSE. Yes, sir.

The CHAIRMAN. What did you get out of the sand pit?

Mr. CROUSE. We haven't received a continental cent. This sand pit has been taken for several years. Tom Lowrey individually entered that lease and took that up himself.

Senator WHEELER. Who entered into the lease with Tom Lowrey?

Mr. CROUSE. We don't know. The council never entered into it.

Senator WHEELER. He has no right to take any sand from your reservation. As I understand, you land down there is held by the tribe itself?

Mr. CROUSE. Yes, sir.

Senator WHEELER. The reservation hasn't been allotted to any individual Indians?

Mr. CROUSE. No.

Senator WHEELER. It is held by the tribe?

Mr. CROUSE. Whole tribe. I met Mr. Fenner here in the city just before we started that case, and he says to me, "What are you going to do? Don't you know that Minnie Schenandore and her husband are taking the sand?"

Senator WHEELER. Are they Indians?

Mr. CROUSE. Yes, sir. Her so-called husband is married to another woman. This Minnie Schenandore and he live together, anyway. She leased it to Tom Lowrey, and there was a former lease to that, which was leased by the Indians, by the chiefs, but she threw that out and kicked them out and she bought that property from other individual Indians. These individual Indians had to recognize the council, and were getting one-third out of that, and two-thirds was going to the nation. Now, she reversed it and is only paying two-thirds to the surface owner, which we never receive, and one-third to the nation, which she claims to be paying, but which she never has yet paid.

The CHAIRMAN. You mean now you are not getting anything out of the sand pit at all?

Mr. CROUSE. No; we are getting nothing at all. It has been held up.

The CHAIRMAN. Are they taking stone and sand out?

Mr. CROUSE. They are taking stone and sand out and we are receiving nothing.

Senator WHEELER. You say you are receiving \$200?

Mr. CROUSE. No.

Senator WHEELER. I thought you said you were receiving \$200 a month.

Mr. CROUSE. At that time Mr. Fenner came there and stopped Dick Jones from paying us. He said he got the authority from Judge Cooper to do this.

Senator WHEELER. What about that, Mr. Fenner?

Mr. FENNER. The money is intact now, Senator Wheeler. I have an injunction. Mr. Crouse and his people served an injunction on me, first on the sand pit.

Senator WHEELER. How did they get the injunction against you?

Mr. FENNER. Through Judge Cooper—that all moneys should be paid to the State agent until further settlement, which was done.

Senator WHEELER. Who was the suit brought by?

Mr. FENNER. The suit was brought by Mr. Thomas and Mr. Crouse through their attorneys.

Senator WHEELER. What for?

Mr. FENNER. To determine who was, I suppose, the owners of it—of that possessory title.

Senator WHEELER. Who has the possessory title?

Mr. FENNER. Eash and every individual.

Senator WHEELER. I understand each individual Indian has out there what is commonly termed "possessory title," but, of course, the lands belong to the tribe.

Mr. FENNER. Surely.

Senator WHEELER. There isn't any doubt about that.

Mr. FENNER. No, no.

Senator WHEELER. These people entered into a lease with the tribe.

Mr. FENNER. The Jones Cut Stone Co. entered into a lease after the two factions had been formed, and the lease was so formed that they signed in two separate columns, and both factions; that is, the chiefs signed the lease, and he has his lease for the stone quarry.

Senator WHEELER. And then he went into court—

Mr. FENNER (interrupting). He didn't go into court; they went into court—the factions.

The CHAIRMAN. The Indian council.

Mr. FENNER. The Indian council went into court.

Senator WHEELER. Went into court and enjoined him?

Mr. FENNER. Yes; enjoined Mr. Jones.

Senator WHEELER. Have you a copy of the pleadings in the case?

Mr. FENNER. I have a copy of all of them, but you didn't tell me in the letter that you wished me to bring those things. Now, as to the money, the money has been deposited by me in the bank, every penny of it, which can be accounted for.

The CHAIRMAN. Pending settlement of this case?

Mr. FENNER. Yes, sir.

Doctor LESEUR. Are there any further steps being taken now to settle it?

Mr. FENNER. Yes; they had another suit then to determine these factions.

Senator WHEELER. Who had the suit?

Mr. FENNER. The chiefs of the nations met in conference. I was called to Onondaga by all the tribes of the Six Nations confederacy. That didn't stand, so they went up to the Supreme Court, before Judge Bryant, of the United States Supreme Court—

Senator WHEELER (interrupting). What is that?

Mr. FENNER. The United States Supreme Court.

Senator WHEELER. No, no, not the United States Supreme Court.

Mr. FENNER. Beg pardon—the district court judge. An agreement was drawn up by the two treasurers. Jones Stone Co. wanted to pay his rent, but he had orders—he didn't know who to pay it to; and we got an order from these two treasurers, with their councils agreeing to pay that money to the State agent, and I deposited it in the bank, and I can account for every penny of it.

The CHAIRMAN. Is there any further statement you want to make, Mr. Crouse?

Mr. CROUSE. Well, I would like to have George Thomas come to the stand here and testify about those leases. He knows more about those leases than I do.

Mr. BRUCE. Mr. Chairman, may I ask just one or two questions of this witness?

The CHAIRMAN. Certainly.

Mr. BRUCE. Do you understand that these flood-prevention dams that the city proposes would flood the lands all the year round?

Mr. CROUSE. Why, absolutely.

Mr. BRUCE. Do you understand that the dams are to be filled up with water all the time?

Mr. CROUSE. If we had a wet season probably they would be.

Mr. BRUCE. Still, I want to know whether you think if the dams are set back they will hold water the year round, or simply hold the flood waters at flood times.

Mr. CROUSE. Yes; I think it would.

Mr. BRUCE. Do you understand that they are to hold water the year round, and flood the lands the year round, like a mill dam with no outlet except over the top? Is that your understanding of the dams that are to be built?

Mr. CROUSE. I understand that they were going to let out the water so much at a time, gradually, and that would then mean that there was so much water in the dam—

Senator WHEELER (interrupting). As I understand it, they were going to stop the water coming down in flood times and then gradually let it out afterwards.

Mr. CROUSE. Yes, sir.

Mr. BRUCE. But you say in the event that you had a wet season it might be possible that the water would stay there?

Mr. CROUSE. It might. Even if it wouldn't at other times, there would be a certain amount of water standing there, because they would only let out a certain amount so that the city would not be flooded.

Mr. BRUCE. Do you understand that the land to be flooded at any time includes the Indian village?

Mr. CROUSE. Why, sure.

Senator WHEELER. How much of the Indian village would it cover?

Mr. CROUSE. Practically all. They were going to put a dam there on the south end and up on the north end. They would take in both ends, as I understand it.

Senator WHEELER. You think that they could build the dam outside of the reservation?

Mr. CROUSE. Absolutely; or, if they would straighten the creek it wouldn't cause any trouble at all. They could dredge it out and straighten it and the flood sewer would carry the water without any trouble. I have had talks with citizens of Syracuse who actually said this, that that was simply a big swindle for the politicians who wanted to grab, or have a lot of money involved in this thing. That is the way they talked to me. The people there in the valley who are threatened with this dam don't want the dam put on the reservation. They said if the Indians allow this dam to be put there, "We want to move out of this valley." The white people say that "We won't live behind those dams."

Mr. BRUCE. In this lawsuit that you had with the stone quarry, one of the questions asked by the court was who were the chiefs? Wasn't that one of the questions asked by the court? Do you understand that?

Mr. CROUSE. Yes; I understand.

Mr. BRUCE. And one of the things that Judge Bryant recently decided in his decision was who were the duly constituted chiefs on the Onondaga Reservation.

Senator WHEELER. What court decided that?

Mr. BRUCE. The United States district court—Judge Bryant, as I understand. I didn't participate in that case, this is merely my general knowledge.

Mr. CROUSE. Well, that was agitation, as I—

Senator WHEELER (interrupting). Let me ask Mr. Bruce a question. How did the United States district court get jurisdiction to decide that question?

Mr. MANLEY. I have given some thought to that, and I understand the United States district court has no jurisdiction over that controversy. As to what kind of proceeding was brought and on what ground the court assumed jurisdiction to decide who was the chief, I don't know. Is there anybody here that can tell me that?

Mr. CREGG. I was the attorney for the opposing faction. I noticed that Mr. Crouse said that the Onondaga Council ordered the first lawsuit. That isn't so. Livingstone Crouse and George Thomas set themselves up as the Onondaga Indian Council and brought an action in the United States district court, and in that action secured an injunction against Lowrey Bros. and Minnie Schenandoah and her sister who were the possessory owners of the sand pit in question.

Senator WHEELER. Let me ask you this: You say they were the possessory owners; that is, they possessed the surface rights, didn't they?

Mr. CREGG. Well, that is a serious question.

Senator WHEELER. I don't think that is any serious question at all.

Mr. CREGG. That was one of the things that came up and was tried out in this action.

Senator WHEELER. What did the court hold with reference to that?

Mr. CREGG. The court held there was no doubt as to that, as to whether they owned the surface rights or whether they owned the entire land.

Senator WHEELER. Let me ask you this: How could there be any doubt as to whether or not, when the Indians as a tribe own the fee to the land—how could there be any doubt as to whether or not, if the Indians by letting somebody take possessory rights they divest themselves of the fee simple right—to everything under the surface?

Mr. CREGG. I don't know how you base that assumption, but the court of appeals of this State has held that the State of New York owns the fee.

Senator WHEELER. I don't think they do.

Mr. CREGG. I don't, myself.

Senator WHEELER. I think those lands are held by the Indians as a tribe in fee without a question of doubt. I don't think that the State of New York owns the fee, or has any right to the fee, because if there is any jurisdiction over these Indians it is in the Government of the United States, if the Government wants to exercise it.

Mr. CREGG. I quite agree with that, but Chief Justice Andrews, who wrote the opinion for the court of appeals, has held that the fee is in the State of New York. That was one of the questions in dispute. Coming down to the point here—the question tried out as to whether the lease was valid and what rights the Indian had on the reservation, it was claimed that he had no rights there, and that was referred to a special master; and the special master held that the Indians on the Onondaga Reservation had adopted the New York State statutes as one of their tribal rules, customs and regulations, and therefore had

consented that the State Indian agent was the man to approve their leases. That lease was held valid and a certain one-third of the revenue earned therefrom went to the Nation at large. Immediately after the injunction was granted a stipulation was entered into that the sand pit might be operated and the revenues from the sand pit be paid to the Indian agent as trustee. Then the question came up, after that phase of the case was decided, as to whom the Indian agent would pay over these revenues, who was the duly constituted treasurer on the reservation, and by stipulation that phase of the case was submitted to Judge Bryant, by stipulation of both attorneys, and he tried out the question as to who was the duly constituted chiefs on the reservation.

Senator WHEELER. If he didn't have any jurisdiction the attorneys couldn't stipulate to give him jurisdiction.

Mr. CREGG. We strenuously objected to the jurisdiction of the court, but we were overruled on every phase of that, and the court held that it did have jurisdiction. Of course, we thought it best to obey the injunction of the Federal district court.

Senator WHEELER. I am not blaming you for obeying the injunction, but I do not consider that the court had jurisdiction.

The CHAIRMAN. The next witness is George Thomas.

STATEMENT OF GEORGE THOMAS

The CHAIRMAN. Your name is George Thomas?

Mr. THOMAS. Yes, sir.

The CHAIRMAN. You live here on the reservation?

Mr. THOMAS. Yes, sir.

The CHAIRMAN. You are one of the chiefs, or have been one of the chiefs here?

Mr. THOMAS. Yes, sir.

The CHAIRMAN. How long have you lived here?

Mr. THOMAS. Forty-two years.

The CHAIRMAN. All your life?

Mr. THOMAS. Yes, sir.

The CHAIRMAN. What is your opinion of the effect of the putting in of these flood dams would have upon your land there?

Mr. THOMAS. I have repeatedly given my opinion that it wouldn't be good policy to accept any such proposition contemplated by both the State and the city of Syracuse.

The CHAIRMAN. Why would it not be good policy?

Mr. THOMAS. Well, there are several reasons. In the first place, our reservation is so confined at the present time that if we dispose of any more of the valuable lands that we still have under our control it would place us at a very great disadvantage to give another few acres of land. Now, I understand that there is 200 and some odd acres that would be required. Well, that would be taking practically all the fertile land of the Onondaga Reservation.

The CHAIRMAN. Do you understand that that would take the village where your people live, or where the greater part of them live?

Mr. THOMAS. Yes; it would take part of it.

The CHAIRMAN. From your talks with the Indians in general, do you think they are opposed to having this property sold for this purpose?

Mr. THOMAS. I have talked to practically all the individuals out there and they all seem to be in harmony in protesting against any such action. They have unanimously protested against the action of bringing that.

The CHAIRMAN. What do you think about the original contract as to the stone quarry and the sand pit?

Mr. THOMAS. Well, on or about 1923 or 1924 Dick Jones came—he was at that time working under another firm, and he thought he would go into business for himself, so then he approached some of our chiefs down there and wanted to know whether he could gain a lease for the quarry there. He found out we had a wonderful lime stone quarry there, the very rarest quarry that could be obtained anywhere around here. Therefore I brought this matter to the attention of the council for their consideration in regard to this proposition set forth by this Jones Cut Stone Co., and it was to the effect that after concluding their consideration they reached their conclusion by indorsing and allowing Jones to operate this, and they themselves put this Jones Cut Stone Co. in the possession of this quarry. He had been paying regularly up until three or four years ago, when we found out that Jones refused to pay any more money to the treasurer, as he had been doing before, on the ground that somebody had apparently approached him and told him that he shouldn't pay any more money to this treasurer.

Well, then, in order to ascertain the facts I went to Jones myself and I demanded an answer to that particular question—"Where did that come from?" Then I found out that Mr. Fenner had received a letter from Judge Cooper, United States northern district judge, telling him not to have Jones pay this money to the nation's treasurer. Now, just prior to that year Jones and his counsel—he made out two checks—one he designated to our council and the other he designated for the other representative of the council of the Onondaga Nation. It was his idea that whichever side would come and get that check cashed in payment of their rent, why, they would be the proper authority supposed to get the money. Well, it happened that very same day when our treasurer was present, and he took the check—and it was the understanding that if this check was cashed, and if it was cashed to a wrong person or party, that they would be expected to refund that, by the action of the Jones Cut Stone Co., so that they wouldn't be losing anything. So then we went to work and there was no question in our minds as to the authority—we went to work and cashed that check, and the other side they had failed to collect that; in fact, they couldn't get their check cashed. Then Mr. Jones' Cut Stone Co. afterwards told me, "I have always maintained that you are the party that represented the Onondaga Nation."

The CHAIRMAN. Do you know anything about the sand pit?

Mr. THOMAS. Yes, I know—

The CHAIRMAN (interrupting). What about the sand pit lease? Tell us about that.

Mr. THOMAS. Mr. Crouse has given you practically all the details about that sand. Of course, I was also involved in that in the beginning. That property was owned by Logan, and Logan sold this property to Minnie Schenandoah, and by purchasing this land she got the land and she could dispose of it in any shape or form that she saw fit. Well, it was contrary to the laws and regulations of the

Onondaga Nation to grant any individual to sell any of the mineral substances that might be on any part of this reservation, because it was known from the time that the individual has the surface right they had the right to cultivate their land and sell whatever produce that they might produce for their own benefit, but when it comes to selling any of the mineral substances, like sand, gravel, or oil, or any mineral substance that might be developed, that is entirely controlled by the chiefs of the Onondaga Nation. Well, this purchase of the location, created this trouble, it was against the Onondaga Nation law to allow an individual to sell. Well, she went to work and she let Lowrey Bros.—in the first place, there was another little man there that was operating, but he was too little, he couldn't produce money fast enough, so she threw him out—so she went to work and got this bigger firm, Lowrey Bros., one of the bigger contractors; well, they went there and operated this pit, and, in fact, if you was to inspect the place, it is surprising how much sand has been taken out of there, and with no compensation out of it. Now, the action that was brought in regards to that, all the courts went against us. We don't seem to have no justice at all.

The CHAIRMAN. Was that in the State courts?

Mr. THOMAS. Well, this was held in the Federal court.

Doctor LE SEUR. You spoke of the receipts from a certain check that was cashed. Was that ever distributed to the nation; if so, how?

Mr. THOMAS. That matter is controlled entirely by the treasurer of the Onondaga Nation, and that money is payable to the treasurer for his keeping, and if there is any time when disbursements are to be made they are to be made with the majority of the council's approval.

Doctor LE SEUR. That is, the council, by a majority vote, specifies whatever distribution is to be made among the individuals?

Mr. THOMAS. Well, it isn't any distribution among the individuals, no. It is money that is to be paid out for any expense, like sending out delegates from one nation to another. The running expense of our government is not so very great. But in that way it requires bookkeeping, the same as any system that you have that way.

Doctor LE SEUR. Then it is true of any sums received by the treasurer, by the council chiefs—any sums so received are distributed by the treasurer?

Mr. THOMAS. Why, it is not exactly distributed by the treasurer.

Doctor LE SEUR. But he has control of it?

Mr. THOMAS. Well, he is receiving the funds—it is the same as any treasurer would have, you know.

Doctor LE SEUR. What I am trying to ascertain is whether or not there is any check upon the treasurer, in your tribal arrangement, any specific method, by which funds received by your treasurer for your nation are distributed for the benefit of the nation.

Mr. THOMAS. Oh, yes. They have from time to time made out checks for the benefit of certain individuals who happen to be in need—that was; yes.

The CHAIRMAN. Does your treasurer make an annual report of the funds collected, funds expended, and so on, at your annual meeting?

Mr. THOMAS. Yes.

Senator WHEELER. What expenses do you have for running the nation?

Mr. THOMAS. Well, the expense varies.

Senator WHEELER. Are any of the officers drawing down salaries?

Mr. THOMAS. Yes; the chairman of the council, he draws a salary.

Senator WHEELER. How much?

Mr. THOMAS. Well, it is—I don't know. I think they have raised what they had been getting before—well, I don't believe I would mention the price at all at this time.

Senator WHEELER. Why not?

Mr. THOMAS. It is not very much.

Senator WHEELER. Well, how much?

Mr. THOMAS. It is more of a free gratis work.

Senator WHEELER. How much is it?

Mr. THOMAS. \$15 a year.

Senator WHEELER. You think he is practically rendering his service for nothing?

Mr. THOMAS. Yes.

The CHAIRMAN. Do the other members of the council receive some pay, too, either per diem or by the year?

Mr. THOMAS. The others, they don't get anything—only just the chairman and the secretary.

Senator WHEELER. How much does the secretary get?

Mr. THOMAS. They all get the same.

Senator WHEELER. \$15 a year?

Mr. THOMAS. Yes, sir.

Senator WHEELER. Now, as to the balance of the money that is in the hands of the treasurer, that is paid out only by vote of the majority of the council, as I understand.

Mr. THOMAS. Yes, sir.

Senator WHEELER. How much money does the treasurer have on hand, generally?

Mr. THOMAS. Well, of course, the last two or three years the conditions were such that you couldn't say how much they had.

Senator WHEELER. I mean, does he have several thousand dollars?

Mr. THOMAS. Oh, no.

Senator WHEELER. Just a few dollars?

Mr. THOMAS. Just a few dollars—it usually runs something like a thousand dollars.

Senator WHEELER. What is the condition of the Indians on this reservation, with reference to their health?

Mr. THOMAS. Why, I think the condition of our health there has been greatly neglected until just recent years.

Senator WHEELER. What is done with reference to the health conditions—with reference to doctors? What do you have in the way of doctors, and who, if anybody, furnishes you medical assistance?

Mr. THOMAS. Why, the State has adopted a system whereby they have appointments to meet every so often for the care of the Indians.

Doctor LE SEUR. Does Commissioner Nicoll, of the State department of health, name the physician for the Indian reservation?

Mr. THOMAS. I think originally he was named by the Governor of the State.

Doctor LE SEUR. I think Mr. Wallace here is best qualified to answer on that subject.

Mr. WALLACE. May I answer that question? The State department of health appoints nurses on the reservation, resident on the

reservation. The State law provides that the board of supervisors of Onondaga County shall appoint a physician. A local physician is appointed to give service to the Indians. The State pays the county of Onondaga \$600 as a fund from which to pay that physician. In fact, the county pays more than that, it pays \$1,500. The balance, the difference between \$600 and \$1,500, or \$900, the county really stands for.

Senator WHEELER. Where is the doctor located, here in the city?

Mr. WALLACE. I am not sure where his home is—South Onondaga.

Senator WHEELER. Does he attend these patients? Does he attend any Indians who call upon him in case of sickness?

Mr. WALLACE. In cases of sickness, and in cases of confinement of women.

Senator WHEELER. Maternity cases.

Mr. WALLACE. Maternity cases.

Senator WHEELER. And sickness in the family?

Mr. WALLACE. That is his job. That being in the health department, I am not so certain about it.

Mr. FENNER. They tried to put that through for three specific days, in the afternoons, that he is to be there, to assist in emergency calls. Every Monday, Wednesday, and Friday afternoons he is on the reservation, besides in the night, when a baby is born, or something like that.

Doctor LE SEUR. Do you recall any outbreak of smallpox or any contagious disease there within the last ten years?

Mr. FENNER. Nothing more than children's petty epidemics. I am personally acquainted with the nurse and her best work is done along that line. And the State is very generous, and I think all of them are, in furnishing hospital care, and all that sort of thing.

Senator WHEELER. The city of Syracuse furnishes that?

Mr. FENNER. The city of Syracuse furnishes that. And they bring in most of the confinement cases now that will come in, and the State pays something like, probably \$5 a week.

Doctor LE SEUR. \$12 a week. The State department of social welfare does much for the Indian poor and the expenditures from their funds includes hospitalization of the Indians who are sick. They come into the city here, a private hospital in the city, or the county hospital in a number of cases, or the county almshouse, and the State pays the bill.

Senator WHEELER. I want to say that the State of New York does more for the care of sick Indians than most other States that we have come in contact with in our investigation. I think the State is to be commended for what it has done with reference to health control.

Mr. MANLEY. You are head chief of the Six Nations, are you not?

Mr. THOMAS. Yes, sir.

Mr. MANLEY. In the United States and in Canada?

Mr. THOMAS. Well, just the United States.

Mr. MANLEY. Does this Six Nations organization claim to be independent of the United States?

Mr. THOMAS. Yes.

Mr. MANLEY. It is not subject to the laws of the United States, then, only as to a very few major crimes?

Mr. THOMAS. Well, subject to treaty rights.

Mr. MANLEY. That is, any rights you have given the United States by treaty you recognize, but none others, is that right?

Mr. THOMAS. Yes.

Mr. MANLEY. The Six Nations' Council collects taxes from members of the Six Nations all over the United States, does it not?

Mr. THOMAS. Well, they adopted about five years ago a system whereby they do collect taxes.

Mr. MANLEY. You have received a salary from the money so raised by the Six Nations?

Mr. THOMAS. Yes, sir.

Mr. MANLEY. What has been the amount of that salary?

Mr. THOMAS. Oh, I have received a salary good enough to keep me, and expenses.

Senator WHEELER. How much salary have you received?

Mr. THOMAS. About a hundred dollars a month.

Mr. MANLEY. Has it ever been more than that?

Mr. THOMAS. No.

Mr. MANLEY. Has it ever been as much as \$3,000 in a single year?

Mr. THOMAS. Why, no.

Mr. MANLEY. Did you account to anybody for that money?

Mr. THOMAS. Yes.

Mr. MANLEY. I mean, did you account to anybody for the tax money so raised?

Mr. THOMAS. Of course. They have a treasurer.

Senator WHEELER. They have what?

Mr. THOMAS. They have a treasurer that looks after that.

Senator WHEELER. I understood you to say a moment ago that the only people that got any money were the two officers that got \$15 each a year.

Mr. THOMAS. This gentleman is asking a different question in regards to whether or not the Six Nations, and the members of the Six Nations, had ever been paying taxes. Of course, he didn't say for what purpose they are paying for.

Senator WHEELER. For what purposes are you collecting taxes?

Mr. THOMAS. Well, prosecution of claims against certain corporations in the State of New York, and so on.

Mr. MANLEY. Suppose a member of the Six Nations didn't join in paying those taxes, what would you do about it?

Mr. THOMAS. Couldn't do anything.

Mr. MANLEY. Haven't you sent out letters claiming that they will lose their tribal rights?

Mr. THOMAS. No; we were very careful about sending anything that would later on come back and give us a black eye.

Mr. MANLEY. Have you ever said that, then?

Mr. THOMAS. Well, I personally haven't never said anything like that.

Mr. MANLEY. Some of this tax money was collected in Canada, was it not?

Mr. THOMAS. Yes; there was some.

Mr. MANLEY. And there was a lawsuit in Montreal, a criminal prosecution of white persons for collecting it?

Mr. THOMAS. Yes, sir.

Mr. MANLEY. They were acquitted, were they not?

Mr. THOMAS. Yes, sir.

Mr. MANLEY. Has any more money been collected in Canada after that prosecution?

Mr. THOMAS. No, I don't think so.

Doctor LE SEUR. You say you acknowledge no jurisdiction by the Government. In case there should be a murder committed on your reservation, the Government would prosecute the murder case, wouldn't it?

Mr. THOMAS. Well, I said with the exception of several major crimes. Then the Federal authorities would prosecute.

Doctor LE SEUR. You do acknowledge that, then?

Mr. THOMAS. Yes.

Doctor LE SEUR. But you do not recognize the authority of the Government in civil matters?

Mr. THOMAS. No, not in civil matters.

Doctor LE SEUR. Why the distinction?

Mr. THOMAS. Because in the early days our headmen used to go hunting and if they met a bunch of hard fellows, young fellows, they would get fighting. Well, they soon found out that they had to have a line drawn between them, and that there must be some understanding. It was specified, therefore, that they mention several major crimes that we should be subject to in order that we should have the same right to protection that you have, that is, as far as major crimes are concerned.

Doctor LE SEUR. And that action has been ratified by your Nation, and approved, has it?

Mr. THOMAS. Yes, everybody seems to recognize it.

Doctor LE SEUR. Has there ever been any formal action?

Mr. THOMAS. I couldn't say for sure about that, because I am only upholding the procedure that has been carried on.

Senator WHEELER. Why is it you don't vote?

Mr. THOMAS. Well, we always thought we had no interest in voting.

Senator WHEELER. Why not?

Mr. THOMAS. Because we don't play any part with politics that exist in this voting capacity.

Senator WHEELER. Well, you are receiving the benefits, or have been receiving the benefits, from the State of New York, in the way of health conditions, hospitalization of your children and your families—

The CHAIRMAN. And schools.

Senator WHEELER. And schools—your children attend the public schools. Now, don't you think you ought to take a part in the civil government?

Mr. THOMAS. Of course, I have always maintained that since we have never given up the right of self-government it wouldn't be very good policy for us to go and vote for some other government.

Senator WHEELER. The Indians vote on all the rest of the reservations, on all the reservations throughout the country, in county matters, State matters, and national matters, but notwithstanding the fact that they vote in all of these elections they don't lose their tribal rights by reason of it, nor would your Indians lose any of their tribal rights if they voted.

Doctor LE SEUR. Do you think the Indians understand that as the Senator just explained it to you?

Mr. THOMAS. Yes.

Mr. MANLEY. Have you ever advised any of the Indians, or the council of the Six Nations, that they will lose their tribal rights if they vote?

Mr. THOMAS. Well, I have, to a certain extent; yes.

Senator WHEELER. What did you base that upon?

Mr. THOMAS. What did I base that upon—well, for instance, the Oniedas, of Wisconsin, they voted, with the previous agreement that their tribal relations would not be affected.

Senator WHEELER. Well, their tribal rights haven't been affected.

Mr. THOMAS. Then I found out actually myself—I went around there and found out—that all those people that voted had no tribal rights, and they are out there in several different little towns in Wisconsin.

Senator WHEELER. That was under the old law, when they were granted a fee simple to their properties. Under the present law, since June, 1924, all of the Indians are permitted to vote, and they don't lose any of their tribal property rights by reason of the fact that they do vote. And the Indians here can't lose any of their tribal property rights if they vote under the present law. Who has been advising the Indians in New York that they would lose their tribal rights if they voted?

Mr. THOMAS. Well, I have carefully studied over the Indian cases like that and I have found out that there is always a loophole there.

Senator WHEELER. You are entirely wrong.

Mr. THOMAS. I am not opposed to it, but I do not think everybody is wrong. I may be wrong. I am willing to admit when I am wrong if I am wrong.

Senator WHEELER. You have been collecting money, or some group has been collecting money, of the Indians over the country as taxes.

Mr. THOMAS. Yes.

Senator WHEELER. Why have you been collecting it?

Mr. THOMAS. For the prosecution of the claim that we had, that we collected for.

Doctor LE SEUR. How were those taxes levied?

Mr. THOMAS. Well, we levied \$1.25 a month.

Doctor LE SEUR. On each Indian?

Mr. THOMAS. Not on all the Indians, only on the adults.

The CHAIRMAN. Those that were of age?

Mr. THOMAS. Yes, sir.

Doctor LE SEUR. Every adult Indian is taxed \$1.25 per month?

Mr. THOMAS. Yes; that is, if they were willing. Of course, we didn't force everybody, or those people that didn't want to pay.

Doctor LESEUR. But you did your best to levy them?

Mr. THOMAS. Yes, sir.

Doctor LESEUR. How much of the money went to Kellogg?

Mr. THOMAS. As to that part of it I couldn't say, because I didn't keep track of that financial part of it.

Senator WHEELER. Well, they collected money, didn't they, from the different Indians?

Mr. THOMAS. They had a separate contract with the Stockbridges and Brothertown.

Senator WHEELER. Who were they?

Mr. THOMAS. People who live out there in Wisconsin.

Senator WHEELER. Does any of the money that you collected go to Kellogg?

Mr. THOMAS. No; he didn't get any money from the Six Nations. The one that I got was collected by me and turned in to the treasurer of the Six Nations, then I drew from the Six Nations.

Senator WHEELER. You collected the money and turned it in to the treasurer of the Six Nations, and then they paid you a hundred dollars a month?

Mr. THOMAS. Yes, sir.

Senator WHEELER. What did you do with the hundred dollars a month?

Mr. THOMAS. I did nothing with it.

Senator WHEELER. Just made a living with it?

Mr. THOMAS. Just made a living with it, because I had employment in South Franklin.

Senator WHEELER. What did you do there?

Mr. THOMAS. Assembly department, 10 years.

Senator WHEELER. How much did you draw down as salary there?

Mr. THOMAS. Thirty-five or forty dollars a week.

Senator WHEELER. Then in addition to that you were getting a hundred dollars a month from the Indians?

Mr. THOMAS. No; I was getting less from the Indians at that time. There was quite a howl over it.

Senator WHEELER. At the time you were drawing down \$40 a week working over here, were you also getting a hundred dollars a month from the Indians?

Mr. THOMAS. No.

Senator WHEELER. You gave up your job over here?

Mr. THOMAS. Yes. That was the reason I gave up my job where I was getting my living.

Senator WHEELER. What have you done with the \$100 a month that you have been getting from the Indians, the Six Nations? That is what I want to know. What have you accomplished by it?

Mr. THOMAS. I gave my services as a member of the commission, the enrollment commission. They had what they called the "enrollment commission," and I was a member of that.

Senator WHEELER. What did they do?

Mr. THOMAS. Went around the different reservations; took their names and enrolled them. And then they issued papers in this suit. We told the people if they didn't have anything they didn't need to sign.

Senator WHEELER. What was the suit? You say there was a suit brought?

Mr. THOMAS. Yes; we filed a suit in the United States district court.

Senator WHEELER. How long ago?

Mr. THOMAS. I believe it was three or four years ago.

Senator WHEELER. What became of the suit?

Mr. THOMAS. It was thrown out of the case.

Senator WHEELER. Thrown out of court, you mean?

Mr. THOMAS. Yes; thrown out of court.

Senator WHEELER. It was the Six Nations of Indians against whom?

Mr. THOMAS. Against the St. Lawrence River Power Co.

Senator WHEELER. What was that for?

Mr. THOMAS. It was a test suit made because they wanted to find out in regard to the possessing of that property. Now, the Mohawk Indians claimed that that property belonged to them, and we wanted to make this suit out of it. That was the reason we started on that.

Senator WHEELER. Who were your lawyers in that matter?

Mr. THOMAS. Wise, Whitney & Parker, New York.

Senator WHEELER. How much did you pay them?

Mr. THOMAS. I can't specify the amount, because I can't recollect.

Mr. MANLEY. Didn't the retainer agreement provide for \$25,000 originally, and didn't you also pay Mr. Everett \$10,000 for an opinion relative to the merits of the claim?

Mr. THOMAS. Yes.

Doctor LE SEUR. Who is the treasurer of the Six Nations at the present time?

Mr. THOMAS. W. K. Cornelius.

Doctor LE SEUR. Has he custody of all the funds of the Six Nations?

Mr. THOMAS. Yes.

Doctor LE SEUR. He pays them out on what order?

Mr. THOMAS. The disbursements that are made arise from the action of the Six Nations.

Doctor LE SEUR. Who orders that that be done?

Mr. THOMAS. The finance body.

The CHAIRMAN. On what ground was your case thrown out of court?

Mr. THOMAS. On the ground that they claimed it didn't involve a Federal question. That was the basic ground. Then they were given a chance to amend the complaint and they prepared it and entered it into court again, but they were thrown out on the same ground, and, of course, our attorneys thought that they might appeal to the next higher court.

Senator WHEELER. As I understand it, that lawsuit wasn't for this band of Indians here on this reservation, I mean as a separate tribe, but it was for the whole Six Nations?

Mr. THOMAS. Yes.

Senator WHEELER. And it involved power sites on the St. Lawrence River?

Mr. THOMAS. Yes.

Senator WHEELER. The Indians claiming that this power company up there had taken these power sites which belonged to the six tribes of Indians, the Six Nations; is that correct?

Mr. THOMAS. Yes.

Senator WHEELER. And it was thrown out of court on the ground that you didn't have a Federal question?

Mr. THOMAS. Yes.

Senator WHEELER. But the question as to whether or not these power sites really belonged to the Indians wasn't decided by the court?

Mr. THOMAS. Well, I guess there were 14 points raised and there were 12 of them in our favor, and I can't understand how the court could overrule those 14 points.

Senator WHEELER. So that I can get this clear in my mind, the Six Nations of Indians claim that these power sites up there belong to them, don't they?

Mr. THOMAS. The Six Nations as a whole.

Senator WHEELER. Yes; the Six Nations as a whole. And that power company went up there and took the power sites and never paid the Indians anything for them, isn't that correct?

Mr. THOMAS. Yes; I think that is correct.

Mr. MANLEY. This \$100 a month that you talk about, you received that from Mr. Cornelius, did you?

Mr. THOMAS. Yes.

Mr. MANLEY. And did you in addition to that receive money from Mr. Edward Everett or from Mr. Kellogg?

Mr. THOMAS. No.

Mr. MANLEY. You never received any from either one of those sources?

Mr. THOMAS. No.

Mr. MANLEY. Do you know personally that the \$10,000 paid for Mr. Everett's opinion was paid to him?

Mr. THOMAS. Yes; I do.

Mr. MANLEY. Do you know whether it was paid by check or cash, or in what form?

Mr. THOMAS. Of course, that part I don't know.

Mr. MANLEY. Mr. Cornelius would know about that, I presume?

Mr. THOMAS. I know that that \$10,000 was paid by the Oneidas of Wisconsin.

Mr. MANLEY. Oh, that wasn't paid out by the Six Nations, then, at all?

Mr. THOMAS. Not at that time.

Mr. MANLEY. That is all.

The CHAIRMAN. Have you any further statement to make?

Mr. THOMAS. No; I don't think so.

The CHAIRMAN. Mr. Fenner will be the next witness.

**STATEMENT OF ALMERON B. FENNER, STATE INDIAN AGENT,
ONONDAGA INDIAN RESERVATION**

Please give your full name to the reporter.

Mr. FENNER. Almeron B. Fenner.

The CHAIRMAN. What is your official title?

Mr. FENNER. State agent of the Onondagas.

Senator WHEELER. How do you get your appointment?

Mr. FENNER. I have had it in various ways, because they have changed the government of the State at times. It is now in the department of social welfare.

The CHAIRMAN. And the appointment now comes through that department?

Mr. FENNER. The appointment comes through that department at the present time.

The CHAIRMAN. How long have you occupied that position as State agent?

Mr. FENNER. I think this is my ninth year. There was an intermission when it was previously an appointment under the governor. Then I was agent four years before that. So I have been Indian agent of the Onondagas, in all, better than 12 years.

The CHAIRMAN. And your work is just with this Onondaga Nation here?

Mr. FENNER. I am agent for all the Indians residing on the Onondaga Reservation, whether they are Onondagas, Oniedas, Cayugas, or whatever they are.

Senator WHEELER. What salary do you get?

Mr. FENNER. \$200 per year, straight salary, and I get 4 per cent of the annuity funds, but the State makes an appropriation for the 2,430 population, but I don't get all of it because a good many Onondagas are on other reservations. I just get paid for the enumeration I make on this reservation.

Senator WHEELER. What is your total salary?

Mr. FENNER. It is about \$273 a year.

Senator WHEELER. Then, what have you been doing for a living?

Mr. FENNER. Well, I have taught school. I have a little home and I look after my grandchildren all the time, and I get work all the time with the Indians when I get over there.

Senator WHEELER. Then this 4 per cent item is for the census taken?

Mr. FENNER. I take the census previous to the first day of June every year of the Onondagas who reside here and who wish to be kept enrolled on this reservation. There are a few residing on other reservations who wish to be enrolled here. I have one living in Hollywood who wished to be enrolled here. She is on my roll now. There are others in other parts of the State, you understand, but they want to keep their enrollment here.

The CHAIRMAN. Do you cooperate in any way with Mr. Harrison down at Salamanca?

Mr. FENNER. His relations and mine have always been very friendly. I cooperate with him and I cooperated with Mr. Ainsley previous to him. Every time he distributes Government goods he always invites me and I take my roll down to verify the names, I suppose. He has an Indian take care of it down here, and I help him distribute those goods.

The CHAIRMAN. Each Indian gets a certain amount of cloth?

Mr. FENNER. This year they got 6 yards per head, in the State of New York, as I understand.

The CHAIRMAN. Is that all they got?

Mr. FENNER. I understand that was all they got from the United States.

The CHAIRMAN. The Onondaga Indians don't get any annuity or interest on funds from the Government?

Mr. FENNER. The State of New York—I can't answer just where the fund comes from. There is an appropriation of \$2,430 for the Onondaga Tribe.

The CHAIRMAN. That is a State appropriation?

Mr. FENNER. That is a State appropriation.

The CHAIRMAN. Do the Onondaga Indians get any money from the Indian Bureau—the Interior Department?

Mr. FENNER. Not through me. I don't know it if they do.

Senator WHEELER. Don't they get a little salt?

Mr. FENNER. Yes, sir; but that isn't from the Interior Department.

Senator WHEELER. Where does that come from?

Mr. FENNER. The State of New York.

Senator WHEELER. How much do they get?

Mr. FENNER. The treaty recites one peck per head. The Indians didn't like the old salt I formerly bought for them, and I now buy them a nice table salt. It varies from 12 to 16 pounds, according to the price of salt.

Senator WHEELER. That was under the old treaty?

Mr. FENNER. That was under the old treaty—from the salt mills.

Doctor LESEUR. Does Mr. Homer Folks have any jurisdiction?

Mr. FENNER. Not anything to do with me, at any rate.

The CHAIRMAN. Do you have anything to do with the health conditions of the Indians here?

Mr. FENNER. Only through Mr. Wallace, of the State department of health, and Mr. Hirsh. They practically leave it with the county superintendent of the poor, in this county, and he most always, unless it is an emergency case, calls me over the phone and asks me about the case, and I approve of it, or don't.

The CHAIRMAN. That is, you give him the information?

Mr. FENNER. I give him the information, because he thinks my knowledge of the people is superior to his.

The CHAIRMAN. Do you have anything to do with respect to seeing that these Indian children go to school?

Mr. FENNER. Only on complaints from the Indians. When they tried to force compulsory training, the complaints came to me.

Senator WHEELER. Do you approve of the leases that are made on the reservation?

Mr. FENNER. We have a statute to that effect. The Indian makes his own leases, and if I think it is satisfactory I approve of it.

Senator WHEELER. That is what I mean.

Mr. FENNER. Otherwise, I make no leases.

Senator WHEELER. No; I understand you are not supposed to make any leases.

Mr. FENNER. I only approve or disapprove of the leases.

Senator WHEELER. What about this flood situation up here?

Mr. FENNER. I know very little about it, only I have tried through this commission in Syracuse to get the Indians to come together and take such action as I understand they took last evening.

Senator WHEELER. You are familiar with this reservation?

Mr. FENNER. I ought to be.

Senator WHEELER. And you are familiar with what the dams would do in the way of flooding the Indian lands, I take it. Now, tell us just what in your opinion it would do to the Indian land, what area it would flood, and what kind of land it would flood.

Mr. FENNER. Well, I don't think I am capable of answering that, Senator Wheeler.

Senator WHEELER. Why aren't you?

Mr. FENNER. I have a map here showing the lands that would be flooded.

Senator WHEELER. I know you have a map, but we want to get your opinion, as the agent in charge. I think you should give your opinion, for what it is worth, as to how much land it is going to flood.

The CHAIRMAN. What would be the effect upon the Indian lands?

Senator WHEELER. What would be the effect upon the Indian lands?

Mr. FENNER. Well, that is a hard problem for me to tell you. I think the flood line covers nine homes.

Senator WHEELER. According to the flood line nine Indian homes would be flooded?

Mr. FENNER. Nine Indian homes would be flooded, according to the map line. That is all the opinion I can give you on the lands in general.

Senator WHEELER. Are you afraid to give us an opinion?

Mr. FENNER. I am not; no, sir.

Senator WHEELER. Why can't you tell us how much land it would flood up here; as to farm land that would be flooded?

Mr. FENNER. It isn't farm land. Where the lower dam would be isn't farmed at all. I think Chapman and Schenandoah have farms that are farmed.

Senator WHEELER. Of course, if the city or the State did build this dam they would want to pay for the damage that they would do to this tribal land?

Mr. FENNER. I understand the law would require them to do that. They haven't intimated to me anything different than that they wished to pay, and pay well.

Senator WHEELER. Now, let me get your idea as to whether or not you feel that this could be taken care of without these dams being built. Couldn't that creek be straightened, as one of these Indians has testified, and, in that way, couldn't they do away with the necessity of flooding this land?

Mr. FENNER. I have talked with the engineer, not yesterday, as I was quoted here, but I have talked with him and he said that in case of flood they could take only so much water in Syracuse, which lays on a flat, about 200 feet, I think, lower than the reservation, and that they would have to put a dam somewhere.

Senator WHEELER. What about placing the dam above the Indian reservation? Couldn't that be done, as has been suggested?

Mr. FENNER. I suppose it could be done; surely.

Senator WHEELER. If it could be done, why shouldn't it be done?

Mr. FENNER. Well, I don't know why it shouldn't be done. I suppose there is nothing impossible.

Senator WHEELER. I am not asking you if——

Mr. FENNER (interrupting). I am not an engineer, Senator.

Senator WHEELER. No, but you have general knowledge.

Mr. FENNER. I have general knowledge, yes. There is one stream there that goes on a rampage, and dams above the reservation wouldn't take care of that stream. There is a water shed that centers in the reservation.

Senator WHEELER. What damage, for instance, has been done to the city up to this time by reason of these floods, if any?

Mr. FENNER. Well, I don't know what the amount has been, but it backs up after the banks get so full, then it goes into the cellars and basements of these department stores, and so on, and what that damage is I don't know, but it is terrible.

Senator WHEELER. If they build this dam up here on this reservation and backed the water up in it, wouldn't there be seepage into the Indian village?

Mr. FENNER. Not according to the maps, there wouldn't be, into the Indian village.

Senator WHEELER. Where is the Indian village with reference to that?

Mr. FENNER. It is about midway between the two dams—the Indian village.

Senator WHEELER. Is it on a hill or is it in the valley?

Mr. FENNER. Oh, the Indians, I judge, formerly located in different parts where there was a good stream of water. I imagine that was the first idea, but since the good roads have come in the State has maintained its highway through there and they have settled and formed an Indian village. It is just a little settlement of houses, just like any little country village. You wouldn't think it was an Indian village by driving through it, their homes are like ours.

Senator WHEELER. Most of these Indians are quarter breeds and half breeds, aren't they?

Mr. FENNER. Oh, I don't know.

The CHAIRMAN. Mixed bloods?

Mr. FENNER. I know there are a good many half bloods or quarter bloods.

The CHAIRMAN. You stated that the complaints came to you. Have the Indians made any complaints to you against this proposition of the city or the State putting in the dams there?

Mr. FENNER. No, sir; nothing in the form of complaints. I have told them, when I have seen them—when they got together, "If you don't want it, say so. Just be businesslike; that is all."

Senator WHEELER. It has been intimated by one of the Indian chiefs, and I think it is well to clear it up, that some one paid you in order to get the chiefs together. Have you ever been paid any money by the city?

Mr. FENNER. No, no; not a cent. I wish I had.

Senator WHEELER. You don't mean that?

Mr. FENNER. No, I except to that, Senator Wheeler. If I should go out for the express purpose of doing something for the city, I would expect them to pay me a fee, the same as they would have to pay some other individual, and I told them so.

The CHAIRMAN. Then, if you do any work for the city they pay you for it?

Senator WHEELER. Has the city of Syracuse paid you any fees?

Mr. FENNER. Never.

Senator WHEELER. But you told the city that it would have to pay you?

Mr. FENNER. Yes.

Senator WHEELER. You couldn't very well act as Indian agent, appointed by the State of New York, and accept pay from the city of Syracuse for performing a duty to the Indians in representing them?

Mr. FENNER. Now, if you came out and hired me, at my home, I would expect you to pay me. If you wished me to go down to see an Indian with reference to buying an automobile, as I have done in hundreds of these cases where a salesman comes and sells an Indian an automobile, and he wants me either to go to see that Indian or bring the Indian to my home, to make his contract—they are all considered wards of the State and you can't collect a cent from them—invariably the Indian wants the automobile, and he wants it on time, and the Indian agrees to it through me.

The CHAIRMAN. What do you mean when you say "You can't collect a cent from them"?

Mr. FENNER. What good would a judgment be against a ward—not a minor? Suppose the salesman sells the Indian this automobile. The Indian gets it on the reservation with a \$150 down payment on a \$700 automobile. The Indian could tell him to whistle for the balance of the price.

Senator WHEELER. I understand that.

Mr. FENNER. And he brings the Indian to me and the Indian agrees, if he doesn't make his payments the same as I would if I bought one under the same conditions, to allow that agent to come and get the car back.

Senator WHEELER. How much do you charge the agent for that service?

Mr. FENNER. The selling agent?

Senator WHEELER. Yes.

Mr. FENNER. If he sells a brand new car I soak him \$5. Excuse that slang.

Senator WHEELER. Let me say to you, in my judgment, when you soak that agent \$5, that you haven't any right to soak him; and when you collect that money for doing that sort of thing it is a breach of ethics and good morals, if not of law. You are supposed to be here to protect the Indian, and when you accept money from anybody for the purpose of doing your duty to the Indian you are certainly violating good ethics and good morals, if not the law.

Mr. FENNER. Pardon me; I don't charge that Indian anything.

Senator WHEELER. I understand, but that doesn't make any difference. It is your duty to protect the Indian, and when you take \$5 or any sum of money from somebody else for doing something for the Indian, then you are doing something that you haven't any right to do.

The CHAIRMAN. Do you act as a sort of collection agency for automobile companies?

Mr. FENNER. No, sir.

Senator WHEELER. That is the trouble with a good many of the Indian agents we have over the United States. They do that sort of thing in the name of protecting the Indian. It is about time it was stopped, whether you are a Government agent or a State agent.

Mr. FENNER. He would go without his car, then.

Senator WHEELER. It is all right if he goes without his car then, but there isn't any reason why he should go without a car by reason of that fact. If somebody wants to sell an Indian a car, and you want to act in that capacity, you can give up your job, because you haven't any right to collect any money from anybody from the outside in doing your duty with the Indian. I don't know what the law is in New York.

Mr. FENNER. I protect the Indian. Suppose that car should be paid for within \$50, and the Indian has taken sick or died; in that case I would not allow the automobile company to come and get the car without reimbursing that Indian family. I put that clause in the contract in my own writing.

Senator WHEELER. I can see no difference in your taking \$5 from an automobile agent and helping him to carry out a contract of that kind, and a city councilman accepting money from a contractor for voting for something in the city council.

Mr. FENNER. I don't solicit this, you understand.

Senator WHEELER. I suppose ordinarily the city councilman doesn't solicit; it is the agent or the contractor who solicits the city council, man.

Mr. FENNER. I doubt whether there has been more than two of the salesmen at my house at any single time.

Mr. CROUSE. In regard to the contracts that the Indians make to buy automobiles, Mr. Fenner simply puts down on the back that that company can go on the reservation and seize the car, the same as he would.

Mr. FENNER. With your consent.

Mr. CROUSE. With your consent.

Mr. FENNER. With yours, too. I get yours in writing.

The CHAIRMAN. You mean, with the consent of the Indian who bought the car.

Mr. FENNER. With the consent of the Indian who bought the car. He is never forced to do anything.

Mr. MANLEY. It is the law of this State that no contract made with an Indian is binding. I will refer you in a moment to the particular provision.

The CHAIRMAN. I would like to ask you, generally, whether or not your department considers these Indians as wards of the State or wards of the Federal Government?

Mr. MANLEY. As you are aware, that is a very vexing question—and has been for 150 years. Both the United States and the State of New York have been acting on the assumption that each had the sole power to deal with the Indians. I think the courts—and I take considerable risk in suggesting this, but I have a precedent in the Reeves report of 1914—it is very probable that if the question were put up to the Supreme Court of the United States it would decide that each had jurisdiction for some purposes.

Senator WHEELER. Of course, under the Constitution of the United States no State, as a subdivision of the United States, has the right to make a treaty with the Indians, or do anything of that kind.

Mr. MANLEY. The provision of the United States Constitution, which I understand to be involved, is the provision that the United States shall have the right to regulate commerce among foreign nations, among the several States, and among the Indian tribes. I think it is demonstrable in history that at the time that clause was inserted the signatories had in mind the Indian countries west of the Atlantic, but there has been so much done since then that probably the historical significance is but slightly understood at this time.

In 269 N. Y., on the relation of Tyler against Waldon, which was a case in this State against the Seneca Indians, counsel for the Indians insisted they were independent of both the State of New York and the United States; and counsel for the United States insisted that the United States had the sole control over the Indians of the State of New York; and counsel for the State of New York insisted that the State of New York had the sole control over the Seneca Indians. The Supreme Court of the United States affirmed none of those theories, they merely reviewed the facts.

Senator WHEELER. In the Boylan case, didn't they decide it?

Mr. MANLEY. The Boylan case never went to the Supreme Court of the United States. The State of New York is exercising and has exercised jurisdiction, and in the case I am speaking of the Supreme

Court of the United States said, "We don't consider it necessary to answer this question."

Senator WHEELER. I think when the Government of the United States doesn't exercise that jurisdiction that then the State can; but at any time, if the Government sees fit to exercise jurisdiction, I don't think there is a question of doubt in the decisions of the Supreme Court but what the Government can then come in.

The CHAIRMAN. These decisions leave the Indians in a rather doubtful situation.

Mr. MANLEY. It has been the curse of the Indians of the State of New York for 150 years.

The CHAIRMAN. Don't you think there should be some definite method or procedure worked out to remedy the situation?

Mr. MANLEY. There should, undoubtedly.

Senator WHEELER. What we want to do is to work out some definite procedure between the State of New York and the Government of the United States.

Mr. MANLEY. Of course, any pride of opinion I or any other lawyer might have is a very small thing compared with the welfare of the Indians.

Senator WHEELER. The only thing the committee wants to do is to see if something can't be worked out for the benefit of the Indians, and I assume that the State of New York and the Government aren't going to fight over the question of which is going to have jurisdiction.

The CHAIRMAN. The committee would be glad to have your opinion or the opinion of your department. If your chief or anyone in your department will write us an opinion or suggestion along that line and send it to us we will be glad to include it in the record.

Mr. MANLEY. Attorney General Ward would like to have been here. It is conceivable that he can get before your committee in Washington at some time, is it not?

The CHAIRMAN. We would be very glad, indeed, to have him.

Senator WHEELER. Yes, we would be very glad. As an officer of the State we would be glad to have him give us his opinion on the matter if he would do so.

Now, Mr. Fenner, has the city of Syracuse promised to pay you anything for your work in connection with this flood control?

Mr. FENNER. No, sir.

Senator WHEELER. Now, with reference to the pipe line, have you ever received any money from this pipe line company?

Mr. FENNER. No, sir. I have always maintained that there was crooked work years ago—I thought there was—although there are no leases in my possession. I hold the original lease that every Indian makes. If he leases a piece of land for agricultural purposes to a white man—which is only done for 10 years, as that is the time set—I hold the original lease, which really belongs to the Indian. If an Indian leases a piece of property, his possessory title, to another, I have gotten them into the habit, because of the troubles that arise, which are many—I have gotten them into the habit of coming to me and I have, gratis, drawn them up a little quitclaim showing that they transferred the possessory title. That is not involved in my duties but it is something I do for the Indians to save them further troubles and they are tremendous on this reservation.

Senator WHEELER. What is the status of the pipe line lease at the present time, do you know?

Mr. FENNER. I don't know.

Senator WHEELER. Have you ever seen the lease?

Mr. FENNER. I have one new lease here where they wanted to build a pumping house on the reservation. I know their attorneys. I looked it over very carefully, and I took it in to the attorney to make sure that the rights of the Indian would be protected. The attorney did that gratis for me. They leased a 60-foot square of land. They give the possessory owner of that \$50 per year. I told that company then that "You must make terms," and I always maintained that with the council chiefs by calling the council of chiefs together. The pipe line company gives them \$50 a year for that. That is all of the lease that I know of.

Now, I have dug up a lease with the Indians, also, to get power to this pipe-line corporation—light and electric power. The company wished to go over across the fields and pump this by electricity, and they had to go to work and make a 10-year lease for each and every individual's property which they crossed. At the end of 10 years they can chop it down—the Indians can. The company pays them the same price that they pay the white people, and theirs only runs 10 years. I called the council together for that, and the light company now pays the Indian nation \$50 per year. That alludes to this transmission line.

In looking this over I found that by this pole arrangement—they pay by the pole—I found that the New York Telephone Co. had been putting poles all over the reservation and that the Indians received no revenue from that. I spent my own time on this and found an old lease away back in 1903 where three of their executive chiefs, as they were then called—there were generally about three in each faction which controlled the funds—and they sold a continuous right to the New York Telephone Co. to place poles anywhere that they saw fit—anywhere—for the sum of \$100, "from now on, as long as said company exists." I have dug that up. I haven't come to the pipe line yet, and on the small sum of \$200 a year that I receive I am not going to play around more than three or four days to dig that up.

Senator WHEELER. I think you ought to be paid more for the service you render. Somebody ought to pay it, to see that the Indians are not robbed by the telephone company and others who are seeking to get something from this tribe for nothing. They ought to be protected against the crooked Indian as well as against the crooked white man.

Mr. FENNER. I agree with you. What started me in on that—there are two roads on this reservation and I take one of them in coming into town, and I saw the company setting out poles 8 feet into the ground on a fertile field. I wouldn't stand for it if it was mine, and I told the Indian so. He was helpless, I found that to be so.

Now, there is another side to it. The pipe line company—

Senator WHEELER (interrupting). What does the telephone company pay the white man for putting a pole on his land?

Mr. FENNER. Well, generally, they go through the country and I guess they get subscribers along the line who give them a right of way.

Then they are assessed so much per mile and they pay taxes to the State, the county, and the town, wherever they are.

Senator WHEELER. At most places where they put their telephone poles on private property they pay?

Mr. FENNER. Not in the country, I don't believe.

The CHAIRMAN. If they went across some property that wouldn't use the phone they undoubtedly would pay.

Mr. FENNER. Then they would pay. If they should come in and start in my village and they didn't injure me I would allow them to put up poles if I wanted a phone.

Senator WHEELER. How about the poor Indians on the reservation?

Mr. FENNER. They pay the same rate per mile to the Indians that they are assessed in town. You take the electric light company, they are assessed; that is, I have them pay taxes to the nation, not to any individuals, at the same rate that they pay on white men's land. I couldn't raise it any more. If they wanted them to pay three times as much I imagine they would gladly do that. And I hold that lease—it is only a 10-year lease. That is all I am allowed to draw it for.

Senator WHEELER. What about this Solvay pipe line that goes across there? What damage if any is that doing to the lands there now?

Mr. FENNER. I can't say as to that. It is damaged, I know that, but they have tried to make some restitution along that line; I know the company has. They furnish that reservation, the Indian village, at great expense, with running water—each and every one of their homes along that pipe line. So it isn't all one-sided.

Senator WHEELER. They furnish running water?

Mr. FENNER. Oh, surely.

The CHAIRMAN. That is, for individual use of the homes?

Mr. FENNER. For the individual use of each and every Indian. They went to work and spent a vast amount of money on several springs, one in particular—well, it is at least two, and put in a large 4-inch main, and each and every home can have running water the year round.

Senator WHEELER. Do they have sewers in the Indian village?

Mr. FENNER. No. This water supply is partially to pay, I imagine, for what they had done to the Indians. You asked me about their lands. Through the village they had injured some trees. Whether they have paid for that or not I don't know.

Senator WHEELER. Have they injured any of the farm lands there?

Mr. FENNER. If you understand this reservation as I do, lying on the border of a big city of 200,000—this question is put up to me quite often, "Why doesn't the Indian farm it?" We have 27,000 acres of white men's farms in Onondaga County unoccupied.

Senator WHEELER. Twenty-seven thousand acres of unoccupied farm land?

Mr. FENNER. Yes, sir.

Senator WHEELER. I thought the only farmers suffering in this country were out where we "wild jackasses" are. Hasn't this bill that was passed by the Hoover administration been of any assistance to the farmers here? And haven't they flocked back to the farms?

Mr. FENNER. I don't see them going in droves. Here is a reservation, you understand, that is practically on the border of this big

city. The boys are good steel workers, the younger men. If they can get \$40 a week, as Mr. Thomas said, or 75 cents an hour, as I understand some of them are getting, they don't want to till the land. I wouldn't say "Stay on the farm" if they can get that money.

Senator WHEELER. Practically all of these men, the Indians, are good workers?

Mr. FENNER. The Indian until he gets to be about 50 is a good worker, then he thinks he is too old. Yes; they are good workers. I wouldn't say anything against them.

Senator WHEELER. They work in factories and shops?

Mr. FENNER. They work in factories and shops.

The CHAIRMAN. And they are considered good workers, of course, or they wouldn't get the employment.

Mr. FENNER. Surely. If I had any criticism to offer it would be that when the work shuts down, with the big wages they get, they are just like a good many whites; they are not prepared for the rainy day. They are not an exception; they are just like any other people.

Senator WHEELER. I am interested in what you said about these farms. Why aren't these farms closer to the city operated?

The CHAIRMAN. He said the Indians get better wages working in the city than on the farms. I assume that applies to the white people, too.

Mr. FENNER. Why, surely.

Senator WHEELER. They can't make as much money working on the farm as they can working in the city?

Mr. FENNER. Why, no. I own a little farm myself.

The CHAIRMAN. Do you make any money on it?

Mr. FENNER. I couldn't if I tried. I am not trying now.

The CHAIRMAN. We will take a recess for one hour for lunch.

(Whereupon at 12.40 o'clock p. m., the committee recessed for one hour.)

AFTER RECESS

(At 1.40 o'clock p. m. the committee reconvened and the hearing was resumed as follows:)

The CHAIRMAN. Mr. Fenner, can you tell us about the leases for the quarry and the sand pit?

Mr. FENNER. Why, I had to do with that, Senator.

The CHAIRMAN. You mean that you helped draw those leases, or approved of the leases?

Mr. FENNER. The first lease that was drawn was drawn by the faction represented by Thomas himself as representing the council of chiefs, and this corporation, and the corporation wanted the agent to approve the lease. It was brought to me and I approved the lease that they had made themselves. The Indians make the leases themselves and I approve. The price was on a sliding sale of \$200 a year for two years, and then I think it raises a hundred dollars a year until it comes to \$200 per year, but the conditions had been so neglected that this was considered the reason they started to lower the scale. Superintendent Dick Jones had a smash yesterday or he would have been here himself.

The CHAIRMAN. And you say that the money that has been paid under this contract is being held up?

Mr. FENNER. Under the Federal judge's order. First, there was an agreement between these two factions, you understand that.

The CHAIRMAN. Did you also get money from the sand-pit lease?

Mr. FENNER. I did have that all, the same way. until they had a trial under this special master, and then he decided and agreed that the possessory owner should have her part, and I had an order then from Judge Cooper, and I released her part.

Senator WHEELER. How much was she to get then?

Mr. FENNER. She was to get two-thirds.

The CHAIRMAN. And the nation one-third?

Mr. FENNER. And the nation one-third.

Senator WHEELER. With all due respect to the opinion of the judge I think he was wrong.

Mr. FENNER. Where was I, on the judge's order? You wouldn't pay it out, would you?

The CHAIRMAN. Absolutely not.

Mr. FENNER. I wouldn't want to go to Atlanta.

The CHAIRMAN. You say you collected this money and deposited it in the bank pending settlement of the suit?

Mr. FENNER. Yes, sir.

Senator WHEELER. Approximately how much of this Indian money have you in the bank at the present time?

Mr. FENNER. I presume I have about \$1,250 of the stone-quarry money. Now, mind you, I keep these funds separate, because they are two separate matters. I keep them separate. The sand-pit money, I should imagine, is around \$400. The sand business hasn't been much this season, as the contracting has been poor. That is paid for by the load, 20 cents per yard, whether there are more yards or less.

Senator WHEELER. Who keeps tract of them?

Mr. FENNER. I get a monthly statement. I think the man who contracted for the sand has to make out two of them, and I get one, and the owner of the pit, the possessory owner, I will put it that way, she must get one. I keep those statements, every one of them, and when they send me my check I deposit it.

The CHAIRMAN. I think that will be all.

The next witness will be Mr. W. H. Rockwell.

STATEMENT OF W. H. ROCKWELL, ONEIDA, N. Y.

Your name is W. H. Rockwell?

Mr. ROCKWELL. Yes, sir.

The CHAIRMAN. Where are you from?

Mr. ROCKWELL. Oneida.

The CHAIRMAN. Do you belong to the Oneida Nation?

Mr. ROCKWELL. Yes, sir.

The CHAIRMAN. Where is that located?

Mr. ROCKWELL. Three or four miles south of the city of Oneida.

The CHAIRMAN. How far is that from here?

Mr. ROCKWELL. Twenty-six miles from here. It is four miles south of the Oneida Reservation.

The CHAIRMAN. About how many Indians have you there?

Mr. ROCKWELL. About 114 or 155 on the annuity list.

The CHAIRMAN. Do you have an Indian agent or superintendent there?

Mr. ROCKWELL. No, we don't.

The CHAIRMAN. Do you have a State agent?

Mr. ROCKWELL. No, we don't have a State agent.

The CHAIRMAN. Who pays your annuity? Where do you get that from?

Mr. ROCKWELL. It is sent to one of the chiefs—Alex Burney.

The CHAIRMAN. One of your council chiefs?

Mr. ROCKWELL. Yes, sir.

The CHAIRMAN. How much does your annuity amount to?

Mr. ROCKWELL. Six yards apiece.

The CHAIRMAN. Six yards of cloth?

Mr. ROCKWELL. Six yards of cloth.

The CHAIRMAN. Do you get any money?

Mr. ROCKWELL. No.

The CHAIRMAN. Do you get any salt?

Mr. ROCKWELL. No.

Doctor LE SEUR. What kind of cloth do you get?

Mr. ROCKWELL. There were two grades this year. Of course, we get our cloth, the number of yards depends on the price of the cloth at the time the Government buys it. There was a time when we received 18 yards.

The CHAIRMAN. The price has gone up and you don't get so much now.

Mr. ROCKWELL. There was one time during the war when we got a yard and a half.

The CHAIRMAN. Does it specify whether it must be woolen or cotton?

Mr. ROCKWELL. No; it doesn't.

The CHAIRMAN. As I understand it, the cloth was bought by the Indian agent, Mr. Harrison, who gets it from the Government supply, wherever the Government buys its supply. From his experience he gets the kind he knows the Indians want—gingham and white sheeting of some kind—several colors of gingham. He said he allowed them to choose the kind they wanted. You get no money from the Government?

Mr. ROCKWELL. No; not any.

The CHAIRMAN. And no money from the State?

Mr. ROCKWELL. No.

Doctor LE SEUR. Have you a health officer?

Mr. ROCKWELL. No; no health officer.

The CHAIRMAN. What is the health condition of your people?

Mr. ROCKWELL. Fairly good.

The CHAIRMAN. Do they consult local doctors there?

Mr. ROCKWELL. Yes.

The CHAIRMAN. How about the school conditions?

Mr. ROCKWELL. Why, the State school was abandoned years ago.

The CHAIRMAN. Where do your children go to school now?

Mr. ROCKWELL. The white school.

The CHAIRMAN. The white public schools?

Mr. ROCKWELL. The white public schools.

The CHAIRMAN. Do they get along very well that way?

Mr. ROCKWELL. They seem to.

The CHAIRMAN. Do you pay tuition?

Mr. ROCKWELL. No.

The CHAIRMAN. Do you vote over there?

Mr. ROCKWELL. No; I don't. Some do. Some have voted, and some have ceased to vote.

The CHAIRMAN. Personally you don't choose to vote?

Mr. ROCKWELL. No, sir.

The CHAIRMAN. Give the reason why you don't vote.

Mr. ROCKWELL. Well, years ago I did vote. That was quite a while ago. It was before I understood the situation, but in going to school, of course, we learn things as we go along.

The CHAIRMAN. Where did you go to school?

Mr. ROCKWELL. I went to the State school for a while, then I went to Hampton, Va., two years. Then I took a special business course at Union College in Schenectady.

The CHAIRMAN. What business are you in? Where are you now?

Mr. ROCKWELL. I am back on the farm now. I am a toolmaker. I found in studying up the causes of the diminishing of our ranks, right back to the treaty of 1840, we were in possession at that time of 1,388 acres of land, as the map here shows to-day. And owing to the fact that the Indians were dissatisfied with the white neighbors they wanted to go away, and they migrated to Canada and other points, and in order to know how much to pay these Indians the land was measured, so that the State could determine as to the pay the Indians were to receive, and so on, and, in that matter, the white neighbors, seemingly, were not much more enlightened than the Indians. We had a measurement of the land—it wasn't measured out to any one particular individual, and no title was issued whatever. There were groups of from 2 to 8 or 9 in a group, sort of familylike, and none of them had received any title to it. So our neighbors then insisted that the land had been divided in severalty and that we had become citizens and should vote. Well, some of the Indians were persuaded to vote, and finally when the Indians had voted several times the question came up, "Well, you Indians are intelligent enough to cast an intelligent vote, why aren't you citizens? You are citizens if you can do that, and if you are citizens you should pay taxes on your land." Well, a great many of them didn't even understand what that meant at all in 1840, and it went up to even 1875 or 1880. And that was the way the Indians of Oneida lost their reservation.

Senator WHEELER. Well, they were granted the land in severalty then?

Mr. ROCKWELL. No, they weren't in severalty—not what I call severalty. The land wasn't even staked out.

Senator WHEELER. Where did you get the idea that because of the fact that they voted that that had anything to do with the taking away of their lands from them?

Mr. ROCKWELL. Because they told them that they could convey their lands—the neighbors did.

Senator WHEELER. Of course, no Indian can convey his land, his fee simple to the land, where it is held by the tribe. And whether you vote or whether you don't vote hasn't anything whatsoever to do with the question of title to your land or the taxing of your land.

The CHAIRMAN. Is your land over there held at the present time by the Onieda Nation?

Mr. ROCKWELL. No, it is held by the European nation. They call themselves Americans.

The CHAIRMAN. What do you mean by "European nation"?

Mr. ROCKWELL. If we are Americans the others must be Europeans. If you can tell me where did we derive our name as "Indian"—we were never in India. When the Klu Klux were around with burning crosses and tearing down doors, and so on, they said that we were the only Americans—they were Europeans.

Senator WHEELER. Well, I think you are the only 100 per cent Americans at that, notwithstanding the fact that there are a lot of superpatriots in the country contending that they are the only 100 per cent Americans.

Mr. ROCKWELL. The point I wanted to make is in regard to the dangers of voting. We have people in here this afternoon who just yesterday returned from the county court in Oneida County where they had gone to see if this case of grand larceny was going to be moved. There has been a question there whether the United States Government should take that case, or the State. And there is considerable more to it, more than you can conceive of, as to what is going on around in that vicinity, because of the voting. When we were repossessed of the land that we were possessed of in 1908, the land was supposed to be divided in severalty years ago, and we were told that the Indians had the right to encumber that land without the foreclosure of a mortgage, and that was a fraud all the way through. We were dispossessed and repossessed in 1922. The tax collector came to me with a tax bill for seventeen dollars and some cents and he was determined to collect those taxes. The State's attorney at Oneida also called me to his office, and I escaped without losing my scalp when I told him that we weren't supposed to pay taxes. He got very excited over the matter. Well, now, there is a white man, an attorney, living in Madison County where there were Indians before the whites came, and still he doesn't understand. Then, here, just, a few days ago we were notified that there were Indian homes that had been sold for taxes in Oneida County. It was all through that citizenship bill in 1924. Now, the tax collector comes to me and shows me where the Indians have become citizens. He only shows that portion. He doesn't show the portion which says, "provided it doesn't interfere with your tribal rights."

The CHAIRMAN. You say there are three or four Indian homes being sold for taxes?

Mr. ROCKWELL. Yes, sir. When they were advertised three or four years ago I went to see the treasurer there and explained the matter to him, and he said he couldn't help it, he couldn't do anything about it. If he didn't know his business why should he be the treasurer? And I asked him if those parcels of land had ever been taxed before and he said "No." The last treaty made by the Indians with the State was in 1842. That map there shows the last one they made, and at that time they had 196 acres of land. Now they have considerably less than 35 acres of land. And one parcel of land is 19 acres, entirely surrounded by white people's lands. And the old trail that is there was there before the white man came, in the early missionary days, when the Indians went through that one trail. That

was their road. Recently a man bought that farm, and that farm was taken away from the Indians. That I know. At the time I was small, a man by the name of Hamilton had influence enough to have the State officials at Albany understand that he had a vote there, but the Indians didn't have counsel and they couldn't help themselves. This one man attempted to close this right of way. He went so far as to break windshields and his two sons threw clubs at me, and then he cut one Indian girl on the wrist with a windshield. If it had been white people it would have been a very severe case, because one of the persons hurt was an Indian woman who was to become a mother. But it had no bearing at all, simply because we were Indians and we didn't have money enough to retain counsel. The Department of the Interior sent a personal letter to the President of the United States about it, and the answer was to get a lawyer. This white man had money enough to defend himself against an Indian woman.

Now, the attorneys for the executors informed us that that land would not be molested, so we didn't try to break the will. We place confidence in men who are supposed to be perfectly honest. We place confidence in your statement here that we can vote. We can vote, but we would be molested. What would we do, Senator, when your term ends? Some new men would come to Washington, and they wouldn't know what you promised, and they wouldn't care.

Senator WHEELER. I am not promising you anything; I am telling you what my opinion of the law is.

Mr. ROCKWELL. In this case we were advised to get an attorney. It seems to me the Interior Department thought we had a great deal of money to spend for those things. We didn't even have a home, a great many of us. Now, in order to go through with this and be protected we have to have Congress pass an enabling act to defend the Indians, so that a three-hundred property, which is rightfully his, ought not be taxed—property that had never been taxed before. Knowing these things, the Attorney General's assistant in Albany admits it, in his opinion, but he says he can't act. His idea is that somebody must be murdered down there before they can act.

How about the investigation in Buffalo? I referred them to one case where a man came into this home that is in question before the law had decided whether he was entitled to that place or not. He goes in while the Indians were away at work, here in the city. He takes the doors off of houses, takes the windows out, takes part of the furniture, and takes it home. When the Indians got home there were no windows in the house, no doors, and no furniture. That man claimed he bought it, but he never showed anything to indicate that he did.

Now, here's the Indians, how are we going to help ourselves. He had seen a letter that I received from the Indian Department saying that they couldn't take care of the Oneida Indians. They prepare laws for their own protection but not for the Indian. When that man took the windows out of that house he was guilty of grand larceny in the second degree, and he was even let out without bond.

The CHAIRMAN. Was the Indian's property returned?

Mr. ROCKWELL. No; the Indian's property was not returned, and he wouldn't return the furniture. He said he had bought this furniture from Mrs. Dockstadter who had died, and willed her property

in this way—she didn't indicate what she owned, she merely said to pay her funeral expenses, and that the remainder should go to the Missionary Society in New York City.

Senator WHEELER. Was that man ever prosecuted?

Mr. ROCKWELL. No; not exactly. In the case where he closed the road—

Senator WHEELER (interposing). I am asking about the man that stole the windows and the doors and the furniture.

Mr. ROCKWELL. No.

Senator WHEELER. He has been arrested, hasn't he?

Mr. ROCKWELL. He has been arrested. He will be prosecuted, I assume.

Senator WHEELER. Whoever is handling the case for the State or Government will prosecute the case the same as he would if those things had been stolen from a white man.

Mr. ROCKWELL. Yes; but we go by indications. If you saw anything about me that didn't look right you could pass your own opinion as to whether I was all right or not. If I had a duty to perform and I wasn't very anxious to perform it, you wouldn't expect I would perform it.

Senator WHEELER. Where did you take the case—to the county prosecuting attorney or to the Federal attorney?

Mr. ROCKWELL. County district attorney.

Senator WHEELER. Is he elected to office or is he appointed?

Mr. ROCKWELL. Elected.

Senator WHEELER. Probably if you Indians had voted, had exercised your right to vote, and this attorney felt he had to get your votes he would probably handle your matters more efficiently, or at least he would not hold back and say, "You haven't got a vote."

Mr. ROCKWELL. Yes; but if he was a Republican and we were Democrats, how would we fare then?

Senator WHEELER. I admit the Democrats fare pretty badly at the hands of Republicans; I will agree with you about that.

The CHAIRMAN. I thought New York was a Democratic State.

Mr. ROCKWELL. It happens that the majority of the Indians are in sympathy with the Republicans. I will say that there are a few Democrats.

The CHAIRMAN. That shows good judgment.

Mr. ROCKWELL. If an Oneida Indian voted Republican he would lose the friendship of his Democratic neighbor. And it is hard for the Indian to get along these days without the friendship of everybody. Now, for instance, when I returned to this reservation land I had a little baby less than two years old. I still have all of those people around. They had nothing against me. They were talking about what good times we had. When I got back there and tried to buy milk for the baby they wouldn't sell it to me. They wouldn't sell me a quart of milk for an Indian baby two years old. That situation undoubtedly seems unbelievable to you. Aside from our trying to gain some headway in industry we have all that to put up with, and it was a long while before we were able to get that milk. In one instance I went to one of my best friends, his mother had been my school teacher, and I asked him to sell me a quart of milk for the baby. He came out with a quart in a can and the only thing I could

do was to put my pail in his can and throw a dime at him and walk away. The only way I gained a friend across the road—I was working here in the city, and the grass grew pretty long along the house and the pasture was very dry, and he had a lot of cattle that needed hay. He looked out and said, "Good morning, Bill," and I says, "Come down here and take this hay away for your cows." And his daughter came over with two quarts of milk, but she had to wait until after dark so that they wouldn't be seen by their neighbors. And how can that be in a civilized country like this?

The CHAIRMAN. Those are unfortunate conditions, but this Senate committee can't do anything about it.

Mr. ROCKWELL. And all that feeling comes about through this question of voting. Here is our reservation, where we had 1,388 acres, and there are only 32 acres left.

Senator WHEELER. I don't think your voting had anything to do with it.

Mr. ROCKWELL. There is a burying ground there and they took half of that, so it is even dangerous now to die; we don't know where we are going to be buried.

The CHAIRMAN. Is there anything further? If not, we will ask Mr. Holmes for a statement.

STATEMENT OF GLENN D. HOLMES, CHIEF ENGINEER, SYRACUSE INTERCEPTING SEWER BOARD

(Mr. Holmes was sworn by the chairman to tell the truth, the whole truth, and nothing but the truth.)

The CHAIRMAN. Please give the reporter your full name.

Mr. HOLMES. Glenn D. Holmes.

The CHAIRMAN. And you are chief engineer for the city here?

Mr. HOLMES. Chief engineer for the Syracuse Intercepting Sewer Board. The position was created by statute for certain work. It is not engineer for the city proper, it is engineer for this board. There are certain special problems that were assigned to this commission, such as the building of intercepting sewers and the improvement of the water courses in the city. There have been several amendments to the act creating this board assigning new duties. Later one of the duties was the investigating of the flood situation and to make recommendations for flood control. After an investigation of some two and a half years I reported to the board as to what I believed was the best plan of flood protection for the city of Syracuse.

Senator WHEELER. How many plans did you make?

Mr. HOLMES. This board investigated some 12 different schemes.

Senator WHEELER. And out of that you recommended three different plans, did you?

Mr. HOLMES. We recommended three different plans, one as the best plan.

Senator WHEELER. But you recommended as alternate plans something else, did you not?

Mr. HOLMES. There was one best plan recommended, then if that couldn't be carried out what would be the second best plan was recommended.

Senator WHEELER. Tell us about your best plan, what you contemplated in that.

Mr. HOLMES. The recommended plan contemplates the continuation of improvements of the creek channel which has been started through the city, and continuation of that through the Indian reservation, then the erection of two dams within the reservation which would act as retard basins to hold back the flood water during times of excessive run-off.

The CHAIRMAN. Which way does that water flow through the Indian reservation into the city?

Mr. HOLMES. From the south, through the Indian reservation, then through the city.

Senator WHEELER. Tell us about what it would do to the Indian reservation.

Mr. HOLMES. The plan if carried out calls for the construction of these two detention basins—they are not retention basins, they don't hold water continuously, they merely retard the water during times of flood. These basins are formed by building a dam across the valley with permanent openings through these earthen embankments. The openings through these embankments are not obstructive in any way. There are no valves, gates, or anything of that kind. They are openings of a certain size.

Senator WHEELER. When you speak of embankments, you are referring to dams, are you not?

Mr. HOLMES. Yes, sir.

Senator WHEELER. They are one and the same thing?

Mr. HOLMES. One and the same thing. When I say "embankment" I mean that it is constructed with earth rather than masonry. The openings are designed to such size that they would pass the maximum quantity of water provided the reservoir should fill to the maximum height. Now, the height of the dam is fixed by the quantity of water it might collect behind the reservoir during the most severe conditions that we believe can happen. It may be due to melting snow in the spring, or it may be due to a cloudburst in the summer, or to a combination of those circumstances.

Doctor LESEUR. Is that the quantity which is now carried safely through the channel in the city of Syracuse?

Mr. HOLMES. It is now carried safely through the channel. Its capacity originally was only a few hundred second-feet. Now it has a capacity of 6,000 second-feet, many times its original capacity. We limit the flow through the embankment so that if a severe storm should occur, like a cloudburst between the reservoir and the city, or the combination of water through the upper watershed and the run-off in the area between the city and the dam, so that the total quantity can pass through the city without overflow or damage. Now, of course, in designing these dams we designed them to take care of the maximum run-off or maximum storm which we believed was possible; that is, during the dry time of the year there is no water behind the dam, because this opening is sufficiently large for all the water coming down the stream to pass without being backed up.

The CHAIRMAN. What is the proposed height of the dams—the dam nearest the city?

Mr. HOLMES. The dam nearest the city is 28½ feet, from the present valley. Now, we propose to build an embankment for the dam about 10 feet higher. That would make it 38½ feet.

The CHAIRMAN. Then you say there is to be a permanent opening through that embankment or dam?

Mr. HOLMES. A permanent opening.

The CHAIRMAN. What is the width of that permanent opening?

Mr. HOLMES. The permanent opening is about 5½ or 6 feet in diameter.

The CHAIRMAN. And that comes through the bottom of the dam?

Mr. HOLMES. Through the bottom of the dam, the full width of the dam, you might say, where the present channel flows it would be carried through, like a culvert or pipe.

The CHAIRMAN. I don't get this straight yet. Is there just to be an opening through the lower part of the dam?

Mr. HOLMES. You can consider it like a pipe going through underneath the dam. Now I speak of the height of the spillway. The spillway is provided so that in case anything happens to this opening. There might be something happen that might obstruct that opening. The spillway is constructed so that if it should spill then it could pass through the masonry, so that it would not endanger the property.

Senator WHEELER. Is an earthen embankment more safe than a cement dam would be?

Mr. HOLMES. Ordinarily. It depends on the geology, or the foundation of the dam. If you had ledge rock, we will say, or limestone, or granite, some hard structure like that, a masonry dam could be built absolutely safe. Where we don't have ledge rock on which to build a dam, as an underlying foundation, as we get below the first depth surface we get into sand and gravel with a mixture of clay. With a foundation of that kind an earthen dam can be built much more safely than a masonry dam.

The CHAIRMAN. You think, then, that this proposed dam and flood control would not affect the Indians' property to any extent?

Mr. HOLMES. No; I think it would extend their property to a certain extent. If both of these dams are constructed and if they should fill to the spillway level, which we believe they never will, because we are building for a larger flood than ever occurred or will occur—if they should fill to that height there would be something like 220 acres above the upper dam which might be flooded, and 460 acres in the lower, or a total of 680 acres which might possibly be flooded by both dams.

Senator WHEELER. What is it proposed to pay the Indians for this land that is flooded?

Mr. HOLMES. There is no definite proposal as to how they should be paid. We had been in hopes that we could get the chiefs together so that we could negotiate with them. We have several things in mind as to how it should be done. If the flooding of the land was taking something away, which was objectionable, other land might be purchased and given them in lieu of it.

Senator WHEELER. If you gave them other land in lieu of it, that would be subject to dedication, wouldn't it?

Mr. HOLMES. Well, as I understand it, not if it is given them as part of their reservation. That would be only one scheme. There

are several that we had in mind. The greater part of all the lands within the reservation will seldom if at all be flooded—that is, the ordinary flood, say a flood once in 25 years, will probably not rise quite as high as one-half of the reservoir, or we would not flood more than one-third of this area more than once in 25 years, or more than once in 10 years, anyway.

Senator WHEELER. Even though it were only flooded once in 25 years, the property would become valueless——

Mr. HOLMES (interrupting). No.

Senator WHEELER. Nobody would want to take a chance on living on it if it were flooded once a year, or once in 25 years, or once in 10 years.

Mr. HOLMES. That is true, if you say once a year.

Senator WHEELER. If it wasn't going to be flooded again for 25 years—you don't know when you are going to have a flood?

Mr. HOLMES. No; that is true—we will say once in 25 years. It might be flooded this year, and it might not be flooded for 25 years; it might be next year, or two years in succession, and may not again be flooded in 50 years.

Senator WHEELER. But no white men would want to own property under those conditions, would they?

Mr. HOLMES. Yes. In 1913 in Ohio they had an extremely severe flood which did more than \$100,000,000 damage in Dayton alone, and resulted in the loss of 300 lives in the city. There they didn't have to deal with Indians because it was all white men's land. There they bought all the land, or they gave an option to the farmer, as to whether they would pay them a certain amount and the farmer would take a chance on a flood coming, or whether to buy the land outright. As a matter of fact, they felt a good deal as you do, they didn't know what the result would be of taking that chance and most of the farmers sold their land, but since that time I think about 75 per cent of the farmers bought their lands back and are occupying it.

Doctor LE SEUR. In this particular case, assuming a given capacity for the pipe that is to carry the water through, and assuming to compute the capacity of the dam, how long is it likely, from any experience that you have had, that flood water would remain on either of the tracts covered by the dams?

Mr. HOLMES. I can answer that by just referring to this report ("Report on Onondaga Creek flood prevention, Syracuse, N. Y., 1927, Syracuse intercepting sewer board"). If you wish to make a note of this, which you will find on page 59—I think you have a copy of the report. It shows that our maximum flood which we have experienced in Syracuse was in the spring of 1920. And at that time if the reservoir had been constructed and in operation there would have been some water backing up. On about the 12th of March and the latter part of that month the water would all have been out of the reservoir. The maximum flood which we have experienced in Syracuse lasted a little over two weeks.

Senator WHEELER. If you took it over, you would expect the city to pay, of course, for all of the land that it would be possible for them to flood at the maximum, would you not?

Mr. HOLMES. Yes. It isn't the intention of the board to take anything without giving full compensation of some kind.

Senator WHEELER. What kind of compensation?

Mr. HOLMES. That would be determined by negotiations with the Indians as to what they would like, what would be best for them—whether it would be other land or money, a fund set up by some agency, so that they would receive the interest on that fund. There are many ways that might work out to the best advantage of the individual Indians.

Doctor LE SEUR. But two weeks' time is all you would expect the land to be actually flooded so as to be out of use?

Mr. HOLMES. With the maximum storm of which we have any record.

The CHAIRMAN. What about the feasibility of putting the dam farther up on the reservation?

Mr. HOLMES. There are other sites. The location of the dam—the dams which will do the most good in controlling floods are those controlling the greatest amount of watershed. Above the city of Syracuse we have a watershed of more than 100 square miles. This program which we have laid out is the best scheme, for the two dams will control some 88 square miles out of this 100 square miles of watershed. Now, if the dams are to be built outside of the reservation so as to flood no Indian land, say, one to the south and another on the west side, they would require two dams. These two dams together would control 62 square miles. Now, you can see when you begin to get up on the watershed your dams will control only a fraction of the watershed. It doesn't do any good to build a big dam up on the upper end of a stream, because it will never fill. You can only build a dam a certain size which will control the area tributary to that basin. Now, as we have laid out this plan we can control 88 square miles. If we go off the reservation we could only control 62 square miles. And with a total control of only 62 square miles there is still the possibility of getting so much flood between these dams in the city that Syracuse might be damaged very, very badly.

Senator WHEELER. Well, now, has Syracuse ever been damaged very badly by the floods that you have thus far had?

Mr. HOLMES. When you say "damaged," you mean dollars and cents damage?

Senator WHEELER. Yes.

Mr. HOLMES. There has been no loss of life here, so far as I know, but there has been considerable property damage—

Senator WHEELER (interrupting). Just a moment. Now, in the sections lying along the creek, how many places have actually been damaged, and to what extent have they been damaged?

Mr. HOLMES. I can refer to the map and show you what areas are under water frequently.

Senator WHEELER. Just tell me. We can't translate it into the record by merely having it exhibited on the map.

Mr. HOLMES. In the mercantile district along the creek the water frequently backs up so that all basements have been flooded.

Senator WHEELER. How many times has that happened in the last twenty years?

Mr. HOLMES. I should say, perhaps, to my knowledge, three or four times. Just one word in reference to that: As I stated, the city of Syracuse has been enlarging the channel through the city. We have built a channel to carry 6,000, whereas before that it carried less than 1,000. Now, in doing that we have relieved the mercantile

section of the city from serious floods. So, since that improvement has been made, there has been no serious flooding through the business section of the city. Now the flooding is confined to the southern end of the city.

The CHAIRMAN. How long is it since this improvement has been made?

Mr. HOLMES. The last part of it was completed in 1922. Just a word further on that: Some one, I think, said this morning that the proper way for flood control would be to continue this deepened and enlarged channel all the way through. At the present time there are large areas in the southern part of the city and to the south of the city, and all through the reservation, that are flooded frequently. Now, when water comes on that land that flooding is just as good flood protection as the city can have, for the amount of flooding that takes place. That is, more water comes down and overflows these flats. That in itself is a detention basin. The only thing we propose is to build a bigger basin that will hold more water in those times. If that is made deeper and carried through well to the south we can drain these flooded lands; which means that their floods now are larger than they were before. Instead of waters standing there in times of flood they are coming through the city, so the floods are larger to-day in the city than they were before.

Senator WHEELER. But you think it hasn't done any damage to property?

Mr. HOLMES. Not where it has been deepened.

Senator WHEELER. That is what I mean—where it has been deepened. Suppose you deepened it along up there, couldn't you deepen it enough so that you could take off this flood water without damage to property at all?

Mr. HOLMES. Without damage to property—to relieve the southern section, but as soon as we do that the water which has been stored will come through the city and we will have greater damage than we ever had.

Senator WHEELER. Greater damage than you ever had. Isn't your channel down below sufficient to take care of the flood waters above?

Mr. HOLMES. No. The flood of 1920 wouldn't carry any more waters without overflowing its banks.

Senator WHEELER. Was that since the improvements?

Mr. HOLMES. Since the improvements. Since the improvement the channel has been filled.

Senator WHEELER. Suppose you did build your dam off the reservation you would be subject to flood waters for 62 miles out of something over a hundred?

Mr. HOLMES. Yes, sir.

Senator WHEELER. Wouldn't that be sufficient back-up and hold the difference?

Mr. HOLMES. Not with the maximum flood which we believe possible with an opening here in Syracuse. From a study of the rainfall records and past floods which have occurred here in this vicinity, we believe that if the channel of the creek is continued with sufficient capacity to protect the lowlands through the lower part of the city, and doing away with this natural storage, it is possible to have a flood which might reach 15,000 second-feet. The actual flood which occurred,

the 6,000-foot flood, if that channel had been continued that particular flood would have passed 9,000 feet through the city. We have always had a 9,000-foot flood, so to speak. Now, no one believes for a moment that we have had the maximum flood. We might possibly have at some time a 15,000-foot flood, and that is the one that we based this plan on.

The CHAIRMAN. What do you base that on?

Mr. HOLMES. The rainfall records, and particularly floods that can happen in this vicinity—New York State. In the back of this book, which you may refer to, are shown the maximum floods which have occurred in New York State. That is found on Plate No. 10.

The CHAIRMAN. Well, of course, it is possible to have more rain here than you have had at any time in the past. The question is whether it is probable or not. You have the history of the floods in this city for 100 years or more, haven't you?

Mr. HOLMES. The only records of any actual quantities of flood waters passing through the city are those made by the Syracuse intercepting sewer board. Of course, we have newspaper accounts of floods which have occurred.

Senator WHEELER. What is the difference in prices of plan No. 1 and plan No. 2?

Mr. HOLMES. Something like \$200,000.

Senator WHEELER. It would be \$200,000 cheaper to have plan No. 1. Then, it would be cheaper to put it in this Indian reservation, than plan No. 2?

Mr. HOLMES. That is, dollars and cents difference?

Senator WHEELER. Dollars and cents difference, that is what I am talking about.

Mr. HOLMES. We don't believe the other plan gives as ample protection to Syracuse as this plan.

Senator WHEELER. Plan No. 2 would be for one dam off the reservation?

Mr. HOLMES. Two dams off the reservation.

The CHAIRMAN. There would be two dams in either case?

Mr. HOLMES. Yes. The first plan has two dams on the reservation. That is the plan which we regard as the cheapest plan. The cheapest plan would be to build one dam on the northern line of the Indian reservation. To have one dam there, large enough to control the whole, would flood a large amount of Indian lands, and that we don't regard as a practicable plan. It would be cheaper, but not feasible.

The CHAIRMAN. If I remember correctly, there was some legislation enacted by the New York State Legislature at its last session in regard to this situation. Briefly, what does that legislation provide for?

Mr. HOLMES. It authorizes the board to build such dams and flood protection work as they determined best.

The CHAIRMAN. Was there any mention of Indian property in that legislation? Was that taken into consideration at all?

Mr. HOLMES. Yes; it authorizes them to negotiate with the Indians.

Doctor LESEUR. It authorizes them to acquire Indian land by negotiations, but not by condemnation under any circumstances.

Mr. HOLMES. Why, I am not a lawyer.

Mr. MANLEY. My impression is that condemnation wasn't provided for. There was one precedent in this State for condemning Indian property—property on an Indian reservation. We did it once and subsequently it was recognized by an act of Congress.

Senator WHEELER. I don't think the city has any authority to condemn any Indian property.

Mr. BRUCE. I have a copy of the law, which I would be glad to file with the committee. Generally, this law authorizes the sewer board to work out plans for flood prevention for the city, and with reference to the Indian reservation it authorizes them to enter into contracts to acquire Indian title both from the individual Indian and from the Nation; and it has a general clause authorizing condemnation of any of the land for any of the purposes of the act. Then, of course, it provides that the taking of any land or of any rights or of any easements in the Indian reservation or elsewhere must be paid for.

Senator WHEELER. According to this report that you made, I notice that it says, speaking of the first proposition, that—

it can be constructed for less money than any other practicable plan which we have been able to devise. All plans involving a less expenditure of funds contemplate the flooding of the council house, churches, school, and burial grounds; the estimated cost of this plan is \$397,000 less than any plan which does not flood Indian lands or property.

Do I gather from that that you mean the plan that you outlined here with two dams would cost approximately \$397,000 less than any other plan?

Mr. HOLMES. Than any other plan that didn't flood Indian lands. There are other plans which do flood Indian lands which cost less than this one.

Senator WHEELER. The one that would flood the burial grounds, churches, and so on, would cost less?

Mr. HOLMES. Would cost less.

Senator WHEELER. This would cost \$397,000 less than any other plan except the plan which would flood the churches, burial grounds, and so on?

Mr. HOLMES. Right. This proposed plan would affect about 15 Indian dwellings as a total out of the whole, and none of the dwellings within—

The CHAIRMAN (interrupting). Somebody testified here this morning that there would be seven Indian dwellings affected.

Doctor LE SEUR. How many houses are there in the village?

Mr. HOLMES. I don't know the total number of houses in the village.

Senator WHEELER. I have before me an article printed in the Post-Standard of Syracuse, which says [reading]:

It is not the intention of anyone concerned to pass any cash to the Indians whose property may be taken. Experience has been, according to those familiar with similar affairs elsewhere and habits of another day of Indians here, that cash settlements sometimes are dissipated or taken away from the recipients before they have had a chance to realize any good from them.

It states that your plans for improvement contemplate taking about 16 residences on the reservation proper, and that [reading]—

It is the present intention to buy equivalent territory in sections not needed for flood prevention and erect thereon modern homes for the owners whose places will be taken.

Was that statement given out by you or by your board?

Mr. HOLMES. I suppose that was obtained by reading the report. Newspapers were given copies of the report and they probably drew certain conclusions. Now the statements I had made as to the number of dwellings are correct; that is to say, 15. They say 16. As we printed, there are 6 at the upper dam, and 9 more at the lower dam, making a total of 15.

The CHAIRMAN. Are those 15 homes in the Indian village out here?

Mr. HOLMES. They are within the reservation. Six of them are up above the village, to the south, and nine of them are at the north of the village, nearer the city. It is a question of what you define as the "village." There is a long street or road through the reservation, and there is a settlement where the houses are closer together.

Senator WHEELER. What was your third plan?

Mr. HOLMES. Well, the third plan would be a different location for the dam. There are several sites above the reservation—choice of location. Any of the plans for dams outside of the reservation would require quite a large amount of reconstruction work through the city to enlarge the channel to a greater capacity than at present.

Senator WHEELER. That is, if you built your dam off of the reservation up there so that you would take in the flood waters coming down on the 62 square miles?

Mr. HOLMES. It is impossible to control the maximum flood which we anticipate without enlarging the channel. It is possible to deepen the channel so much. Now, there are certain engineering features to be considered. There are walls there now built directly on opposite sides of the street and you couldn't go wider now without damaging property. So the only other scheme is to raise the embankments along the sides, as they do in certain rural communities. Now, if you raise the embankments through the city, there is no way of taking the water which accumulates here through these embankments. There is no way of getting the water through. With these embankments in times of flood the water would back up.

Doctor LE SEUR. Does a considerable portion of the sewage empty into this stream?

Mr. HOLMES. A part of the first duty of this board is to build large intercepting sewers, and those generally parallel watercourses. Now, the sewer is built larger so that it takes all the dry-weather flow. In times of flood there is a certain amount of this dry-weather flow which does pass through the watercourse. If we had to divert that it would mean building a sewer almost as large as the watercourse itself. Our intercepting sewer now through the city is some 10 feet in diameter, and that only carries a drop in the bucket compared with a storm flow. When we have a storm flow it is frequently from ten to twenty times more than the dry-weather flow.

The CHAIRMAN. Any further statement?

Mr. BRUCE. I don't believe you brought out enough for the record as to the physical situation with reference to the southern part of the city, and the annual flood which now takes place there, as I understand. Will you explain just what the situation is, physically, I mean—the lay of the land, so to speak, as to the whole southern part of the city, and what actually occurs now in the matter of the flooding of that territory, practically annually, sometimes in the fall but almost always in the spring.

Mr. HOLMES. In the southern part of the city the valley of the creek has considerable width, I should say approximately three-quarters of a mile in width, and through that section of the city this channel has not been deepened or improved. Now it happens that practically every year, and sometimes more than once a year, sometimes twice a year, the quantity coming down can not help but overflow this channel so that large areas are flooded at least once or twice a year. And that, of course, backs into the cellars of dwellings. Sometimes it covers the first floors of their houses. The Seneca Turnpike, one of the main thoroughfares through the State of New York, is in the southern part of the city and the water is passing over that turnpike every year. It passed over twice in 1927 so that the street car traffic had to be suspended. And the school house is on one side of the valley, and the school children can't get across.

Mr. BRUCE. The railroad tracks were flooded?

Mr. HOLMES. The railroad tracks were flooded, so that the railroads had to suspend operations; they couldn't operate the cars. But these large areas have suffered damage every year [indicating on map]. Does that answer your question?

Mr. BRUCE. Yes. Does your map show, or can you give approximately the present flood area that is actually flooded once or twice a year down in the valley section?

Mr. HOLMES. If the committee will refer to the map Plate No. 1, the shaded area there shows the section of the city which is flooded frequently—the heavy line through from here [indicating]. The parallel lines show the part of the creek which has been improved. I know it has been to this point here [indicating]. These areas which are shown to be frequently subject to flood have had no floods since the improvements have been completed. These areas, down through this part, are flooded every year [indicating].

Mr. BRUCE. Can you give that in acres, or any unit of measure you want to use, approximately?

Mr. HOLMES. Why, there is a section of the city, perhaps three-quarters of a mile wide, approximately, and a mile and a half long, that is flooded more or less every year. The reservation is about three-fourths south of the south line of the city. There is only a comparatively short distance in there [indicating]. The reservation is about 6,000 acres.

Mr. BRUCE. Now, Mr. Holmes, would that situation, that present flooding of what we term the "valley area," would that be corrected by merely extending the creek improvement toward the Indian reservation? I mean the present improvement that you made.

Mr. HOLMES. It would transfer the flooding from the southern end of the city to the business and commercial section of the city.

Mr. BRUCE. In other words, that would increase the damage that would be likely to be done?

Mr. HOLMES. Well, in dollars and cents, it would magnify the damage in the commercial section.

Mr. BRUCE. This program that you have for the dams in the Indian reservation, as I understand, is designed to take care of every maximum flood that, in your judgment, would ever occur in this section?

Mr. HOLMES. That is correct.

Mr. BRUCE. And if this maximum of 15,000 cubic feet per second should occur, would that flood the down-town section?

Mr. HOLMES. No; not with this—

Mr. BRUCE (interrupting). No, no, no; if it should occur now.

Mr. HOLMES. Anything exceeding 6,000 second-feet will flood the city.

Mr. BRUCE. Anything exceeding 6,000 second-feet will flood the city. You are speaking now of the general business section of the city?

Mr. HOLMES. Yes.

Mr. BRUCE. And if you had a 15,000-foot flood it would flood, without question, the whole down-town business section?

Mr. HOLMES. The water would be standing more than 2 feet on Salina Street, and it would be in the cellars and basements of this section here [indicating], but the water would not be standing on the surface of the ground here [indicating].

Mr. BRUCE. You say there would be nine houses north of the present Indian reservation that would be affected?

Mr. HOLMES. Nine at the lower dam, and six at the upper dam.

Mr. BRUCE. And it is not your thought that if this program was carried out that the people would necessarily live in those houses? We would expect to pay for those houses?

Mr. HOLMES. No; what we had in mind would be to move them back on sites which they would select. The estimate in here provides sufficient funds to build new dwellings.

Senator WHEELER. Have you made any estimate of the value of the Indians' property which you would have to take?

Mr. HOLMES. The estimate here includes a higher price per acre than it does for white men's land.

Senator WHEELER. What is it?

Mr. HOLMES. We have included in this estimate \$60 an acre for Indian lands, and \$50 an acre for white men's lands, above. The farther up you go it can be occupied and farmed at less risk.

Senator WHEELER. What is the value of that land up there?

Mr. HOLMES. Above?

Senator WHEELER. No, on the reservation.

Mr. HOLMES. I understand the Indians themselves sell the land at somewhere around \$15 an acre.

Senator WHEELER. That, of course, is just for the surface rights; they don't grant any patent or fee to it?

Mr. HOLMES. They sell from one to the other.

Senator WHEELER. That is just for the surface rights.

Mr. HOLMES. That is just occupancy. If we can have occupancy or the right to flood that would be all we would care for. We may not flood it, but we may have the right to flood.

Senator WHEELER. The land would not then be of any value to the tribe?

Mr. HOLMES. That whole area can be occupied and farmed without risk of a flood happening once in an Indian's life time.

Senator WHEELER. You wouldn't want to live there yourself under those circumstances with your family?

Mr. HOLMES. We aren't asking any Indians to live in this area. We are providing new homes, better homes, for them.

Senator WHEELER. I think there ought to be something worked out for the Indian. You ought to be able to work out something for the Indians. I will say, frankly, that I would want to see a representative of the Government present at the negotiations so that the rights of the Indians would be fully protected in the matter.

Mr. HOLMES. It could be approved by the Indian agent here, and then by the department in Washington as a final settlement. We are very anxious to have everything in the open and have every one pass upon it.

Senator WHEELER. I am inclined to think it would have to be approved by Congress.

Mr. HOLMES. Well, that is what we had in mind—if we could have an enabling act, a ratifying act.

Senator WHEELER. That is all.

The CHAIRMAN. The next witness will be Mr. Schildhauer.

STATEMENT OF EDWARD SCHILDHAUER, VICE PRESIDENT SOLVAY PROCESS CO., SYRACUSE, N. Y.

Mr. Schildhauer was sworn by the chairman to tell the truth, the whole truth, and nothing but the truth.

The CHAIRMAN. Please give your full name to the reporter.

Mr. SCHILDHAUER. Edward Schildhauer.

The CHAIRMAN. And you are president of the Solvay Process Co.?

Mr. SCHILDHAUER. Vice president.

The CHAIRMAN. That is the company that has the pipe line across the Indian land?

Mr. SCHILDHAUER. The pipe line is owned by the Tully Pipe Line Co., now a subsidiary of the Process Co., but originally an independent company.

The CHAIRMAN. Do you happen to know anything about the history of this right of way across the Indian land, or the lease, or whatever it was?

Mr. SCHILDHAUER. Of course, I am a newcomer to the Solvay Process Co., relatively, but I have seen histories with reference to it, and I do know that the Tully Pipe Line Co. was organized in 1889 to serve the salt industry and the Solvay Process Co. with salt. At that time it was organized under the New York State transportation act, because it was a transportation company serving the industry which then existed in Syracuse, but outside of the Solvay Process Co. there is no salt industry. At that time, of course, they selected their right of way along the highways, which were then perhaps owned by towns, later by counties, and now maintained by the State, and they must have at that time secured an easement and paid for the easement. Of course, this was 40 years ago. They were incorporated under the transportation act of the State, and have been operating ever since.

Senator WHEELER. Have you a copy of the lease in the files of your company?

Mr. SCHILDHAUER. I suppose we have.

Senator WHEELER. Will you get a copy of that lease, or whatever you term it, whether an agreement or the right to an easement, or whatever it might be, and furnish a copy of it to the committee?

Mr. SCHILDHAUER. Yes, sir.

The CHAIRMAN. Will you mail it to the Senate Indian Affairs Committee, Senate Office Building, Washington.

Senator WHEELER. Mail it to the chairman.

The CHAIRMAN. What is the company doing on Indian land against damage from leakage from this pipe line?

Mr. SCHILDHAUER. Whenever there is damage we can correct it—pay for it. Of course, our first damage—this was years ago—was the pollution, so to speak, of the water supply as the result of leakage, and the Solvay Co. put in a complete water supply for all the Indians around there. You understand this pipe line is under the street or road going through the Indian reservation.

Senator WHEELER. Under the road?

Mr. SCHILDHAUER. Yes, sir.

Senator WHEELER. What is it composed of?

Mr. SCHILDHAUER. Regular cast iron water pipe, common standard water pipe. Instead of carrying water it carries brine.

Senator WHEELER. Doesn't brine eat out cast iron?

Mr. SCHILDHAUER. No; it has been in there for 40 years.

Senator WHEELER. But you do have leakages?

Mr. SCHILDHAUER. Oh, sure, like you get in any water line.

Senator WHEELER. Have you had any claims from individual Indians for damages to their property?

Mr. SCHILDHAUER. Yes.

Senator WHEELER. And have you made settlements with individual Indians?

Mr. SCHILDHAUER. Always.

Senator WHEELER. You don't know what the original lease provided for?

Mr. SCHILDHAUER. No. You see, I have had no occasion to look that up. We have always had very friendly relations, at least I feel so.

Senator WHEELER. What is your company paying these Indians now for the use of the land?

Mr. SCHILDHAUER. There is no payment, because the original easement must have been settled 40 years ago. It is an easement; that is, I assume it is.

Doctor LE SEUR. Carrying brine under pressure?

Mr. SCHILDHAUER. Gravity.

Senator WHEELER. Well, now, you had a similar reason to cross white men's lands down below?

Mr. SCHILDHAUER. It is on the same basis. We have easements. We don't pay anything for easements, but we pay for any damage done.

Senator WHEELER. You had an easement to cross the white man's land, but subsequently didn't you buy a good deal of the land down there—buy it outright?

Mr. SCHILDHAUER. Yes, we have. Where the white man was unreasonable and claimed more damage than his damage was worth we would buy his farm.

Senator WHEELER. The damage would be the leakage from the pipe and the salt getting into the land, which would make the land valueless because of the salt getting into it?

Mr. SCHILDHAUER. Yes, to a greater or less extent; but you can trace it definitely—so many acres, say, of damage, for whatever that and is worth.

Senator WHEELER. When you send the lease to the chairman, that is, a copy of it, will you also send us a list of the number of Indians that you have paid damages to, and the amount of damages that you have paid to the Indians?

Mr. SCHILDHAUER. How far back?

Senator WHEELER. Well, make it for the last 10 or 15 years.

Mr. SCHILDHAUER. Yes.

Senator WHEELER. I think that is all.

The CHAIRMAN. We will call Mr. Wallace.

STATEMENT OF RICHARD W. WALLACE, ASSISTANT DIRECTOR STATE DEPARTMENT OF SOCIAL WELFARE, NEW YORK

The CHAIRMAN. Just give your full name to the reporter.

Mr. WALLACE. Richard W. Wallace.

The CHAIRMAN. And your occupation.

Mr. WALLACE. Assistant director State department of social welfare, which embraces the bureau of Indian affairs.

The CHAIRMAN. Of the State?

Mr. WALLACE. Of the State.

The CHAIRMAN. What supervision of the Indians does your department undertake to oversee—along what particular branches?

Mr. WALLACE. May I go back a little and show the changes in that connection?

The CHAIRMAN. Very well; yes.

Mr. WALLACE. Until some two years ago the State department of charities, as it was then called, had only the matter of the relief of the Indian poor, the department expending for the Indian poor, either in their own homes in furnishing maintenance, sustenance, and medical care, or in hospitals furnishing medical care, or in the charitable institutions of the State caring for the Indian children who are destitute—spending anywhere from \$20,000 to \$25,000 annually. That work has continued until we probably are paying this year nearly \$30,000 for the care of destitute Indians in these various ways. The department also now has the control of the Thomas Indian School, a State institution caring for 200 children.

Senator WHEELER. A boarding school?

Mr. WALLACE. A boarding school, caring for destitute children in the Cayuga reservation. And that institution is maintained under the control of the department of social welfare, and has been for about two years. Prior to that time we had supervision only.

Senator WHEELER. What grades do you teach there?

Mr. WALLACE. The grades going up to the junior high school, and occasionally more, and in addition the institution has made arrangements with the Gowanda high school for the older children to go to Gowanda. May I state that two years ago the valedictorian of the Gowanda high school graduating class was one of the boys of the Thomas Indian School. He was also the leader of athletics in that institution. There were 15, the last I knew, attending the Gowanda school, being taken down to the institution daily, one member of the staff going down at noon and taking them into the building they had rented for the purpose of giving them their lunches, and then bringing them back when the school was over with. That institution cost \$130,000 or more and is maintained by the State itself.

With reference to other matters on Indian affairs, there was a certain authority given to the commissioner of the land office, and that was later transferred in part to the Commissioner of Indian Affairs, which commission did not exist very long, as I recall, and later it was transferred to the governor by legislation, I think, in 1924. It was transferred to the Department of Education and in 1927 to the department of social welfare, the department of charities as it was then called, and now in the past year it has been changed to the department of social welfare. That covers certain matters with relation to the distribution of annuities, the appointment of Indian agents, and their attorneys, in the several reservations.

Senator WHEELER. On the other reservations we found a half dozen different fellows, probably not as many as that, who claimed that they were appointed to look after the Indians, but most of them didn't seem to be doing a very good job of it.

Mr. WALLACE. Mr. Fenner, whom you have had before you to-day, is appointed to look after the affairs of the Onondaga Indians, and similar arrangements exist with relation to the St. Regis and Tonawanda Reservations.

Senator WHEELER. We have had a good many complaints from the St. Regis Indians, with relation to power sites which belonged to them being taken by the power trust or power companies without paying the Indians anything by just going in there and taking them. Do you know anything about that at all?

Mr. WALLACE. I am very sorry I can't go into the details of that in a manner which would be satisfactory to your committee, for the reason that I am not well posted on it and can't give you the details satisfactorily. I am quite sure Mr. Manley, who is here, would explain that more satisfactorily.

Senator WHEELER. Mr. Grorud suggests there is one up there now in the St. Regis Reservation, and the Indians complain that they are simply going in there and using the Indians' power site.

Mr. WALLACE. I am uninformed on that question.

Senator WHEELER. Of course, these power sites now are becoming extremely valuable, and in my own State the power companies are agreeing to pay a very substantial sum for a power site.

Mr. WALLACE. Pardon me—on the other Indian reservations, Mr. William H. Coon, of Batavia, is one of the Indian attorneys.

Doctor LESEUR. We saw him yesterday at Salamanca.

Mr. WALLACE. And Mr. Summers, of Salamanca.

Senator WHEELER. We were rather impressed with the one we did see, that represented your bureau, at Salamanca.

Mr. WALLACE. Mr. Coon, of Batavia. Mr. Coon is very much interested in the Indians; in fact, he told me he had some Indian blood in him. We had some dealings also with your agent, Mr. Harrison, of Salamanca.

Senator WHEELER. Not my agent—he is the agent of the Indian Bureau.

Mr. WALLACE. Pardon me—I thought you were a part of Washington. He distributes the annuities to the Cayuga Indians residing in New York State, and he receives a small compensation for his work in distributing that money. The other agent is Mr. Lincoln—Ivory M. Lincoln, of Gowanda, who distributes Indian money due the Cayugas in the western part of the State.

Senator WHEELER. I understand there is \$247,000 due from the State of New York to the Cayuga Indians. What about that?

Mr. WALLACE. As I understand that situation, the Cayuga Indians sold their land to the State of New York, at 4 shillings an acre, more than a hundred years ago. In later years the State sold it for a profit. I think they sold it for 16 shillings an acre. Along in probably the middle of the last century agitation was started to recover for the Cayuga Indians from the State of New York the difference between the price they paid and what they sold the land for. Finally, in 1909, by legislation an amount was set aside, something like \$247,000, for the benefit of the Cayuga Nation and interest on it to be paid annually. That amount was paid for a period, and later representatives of the Senecas made a claim for a share in it. These Cayugas, having sold their land, scattered somewhat, some of them going into Canada, and some of them going down on the Ohio River, then later to the Indian Territory, now Oklahoma. And the annuity on the first amount of the purchase has been paid regularly. It is still being paid and divided between the Cayuga Indians in New York State, who have found homes among the Senecas, and the Cayuga Indians now in Oklahoma. The Cayuga Indians in Canada are not getting any of this money. The Senecas, having made their home with the remnant of the Cayugas residing in the State of New York, claim that the Cayugas should share this money with the Senecas. And that led to some legislation. I can give only perhaps a vague statement of it here.

I would like to present the matter more in detail in writing, or have Mr. Manley do so, for your records. But legislation was enacted authorizing the division of this money between the Cayugas and the Senecas when the two tribes got together and agreed on an adequate distribution of the money. They haven't got together yet. There are some Cayugas—I have talked with some of them—who say they wish to have a settlement made, or to have an agreement with the Senecas, and they are willing to pay the Senecas a portion of it. On the other hand, there are some who do not wish to have a settlement made. One of them told me, "We don't want this money paid, we want to go back and take our land"; and they have not yet agreed, and the amount is now held pending an agreement between the Cayugas and the Senecas. I think that is all the information of any value I can give you on that to-day.

The Shinnecock Indians had considerable territory on Long Island. I think that land that they held was not on the basis of any treaty whatever, but on a contract with certain individuals. I think I am correct in saying that they are not of the State of New York. The Shinnecock Indians are a mixed race, largely of negro blood. These Shinnecock Indians were whalers, a great many of them. I don't know what the date is, but at a certain time they, having a lease for a considerable tract of land—I wouldn't be surprised if it was 1,600 or 1,800 acres—finally gave up a portion of it known as Shinnecock Hills, which was the largest area in it, for an absolute fee in 450 acres or thereabouts, which is the neck of the island jutting out into the water, and they live on that. As I say, they were whalers, excellent sailors, and at the time of a certain wreck in 1876 many of the best men in the tribe, in endeavoring to save a British ship that

was on the rocks, lost their lives, with the result that they are somewhat deteriorated physically at the present time, and, as I say, they are largely of negro blood. They are living in a very meager fashion and work on road construction gangs, or anything they can get to do, have very little in the way of clothing, and are exceedingly poor.

Senator WHEELER. I think that is all.

STATEMENT OF ANDREW GIBSON, ONONDAGA INDIAN RESERVATION, N. Y.

(Mr. Gibson was sworn by the chairman to testify the truth, the whole truth, and nothing but the truth, and testified through Interpreter David R. Hill, also duly sworn.)

The CHAIRMAN. Mr. Gibson, as I understand, was president of the council here when the lease was made for the pipe line with this salt company; is that correct?

Mr. GIBSON. No, sir.

The CHAIRMAN. Was he a member of the council at that time?

Mr. GIBSON. Yes, sir.

The CHAIRMAN. You were a member of the council at that time?

Mr. GIBSON. Yes, sir.

The CHAIRMAN. Does he know anything about what the terms of the lease were when that pipe line was put across there?

Mr. GIBSON. I never understood fully as to the terms of that lease. Since that time those men that were present have all died.

The CHAIRMAN. And he never understood what the terms of the lease were?

Mr. GIBSON. No, sir.

Senator WHEELER. How much did the council get paid for giving the lease or easement?

Mr. GIBSON. Five dollars apiece.

Senator WHEELER. They got \$5 apiece?

Mr. GIBSON. Yes, sir.

Senator WHEELER. That was what was paid them personally, wasn't it?

Mr. GIBSON. Yes, sir.

Senator WHEELER. They got that providing that they would let this company have an easement across the reservation?

Mr. GIBSON. Yes, sir.

Senator WHEELER. Now, how much did the tribal council, or the tribe, get out of it, if anything?

Mr. GIBSON. They didn't get anything.

Senator WHEELER. They didn't get anything. The Indian council was dealing a good deal then the way some city councils are dealing now. The councillors get it and the city doesn't get anything.

Mr. GIBSON. Yes, sir; just the same thing.

Senator WHEELER. The same way. They were adopting the way of the white man, is that it?

Mr. GIBSON. I suppose so.

Senator WHEELER. Does he have a statement that he wants to make to the committee?

Mr. GIBSON. In the first place, he wants to know why the committee didn't come to the council house where these chiefs assemble to discuss matters relating to their affairs.

The CHAIRMAN. Yesterday we called a meeting at the council house and found after we got into the neighborhood that the council house was not provided with a system for heating and that we could not hold the meeting there, and we had to send out word to change our plans and hold the meeting here in the city hall where we were sure of having heat, light, and so on.

Mr. GIBSON. Relative to the meetings of our councils on the reservation, we have been handicapped on account of the arrival of Mrs. Kellogg and preaching, as she did, several years ago, and I have been unable to call the council and have everybody attend.

Senator WHEELER. All right. Has he got any further statement?

Mr. GIBSON. Relative to the placing of the dams on the reservation, I do not approve of having any dams at all. We would forfeit our rights and would lose out finally in the matter of our subsistence on the reservation land.

Senator WHEELER. Ask him if he wouldn't be willing to sell some of this land providing they got a sufficient price for it—what the land was worth.

Mr. GIBSON. No, sir.

Senator WHEELER. He doesn't want to sell it at all?

Mr. GIBSON. I am not willing on account of the little territory that we have left at the present time.

Senator WHEELER. Would he be willing to exchange it for other land to take its place right close to the reservation?

Mr. GIBSON. I am perfectly satisfied as we are, where we are at present located.

Senator WHEELER. I understand that, but ask him, if he could get other lands which would be just as good or better, right adjoining the reservation, wouldn't he be willing to exchange it in order to help out the flood situation which exists here in Syracuse.

Mr. GIBSON. I never could win in the exchange of any land.

Senator WHEELER. He thinks he couldn't. But suppose it could be shown him that, as a matter of fact, he would get better land, and that he would be fully protected in getting better land that would adjoin the reservation, wouldn't he be willing to do it then in order to help out in the flood situation which exists here in the city of Syracuse?

Mr. GIBSON. I would have to call the Six-Nation council together, at which time we would consider the proposition.

Senator WHEELER. He wouldn't want to be selfish about it and cause a great deal of damage to the city of Syracuse providing he could get lands and hold them under exactly the same conditions as he does at the present time with reference to taxation, and so on, would he?

Mr. GIBSON. I couldn't do that.

Senator WHEELER. I don't blame him for being a little suspicious in dealing with the white man, but if he could be sure he wasn't getting the worst of it, would he be willing then?

Mr. GIBSON. I could not say one way or the other.

Senator WHEELER. I am just asking for his personal view. I understand he can't speak for the tribe. I am just asking for his own personal view in the matter.

Mr. GIBSON. I am not willing.

The CHAIRMAN. Is there any further statement he wants to make?

Mr. GIBSON. I think not.

The CHAIRMAN. Mr. Hill is the next witness.

STATEMENT OF DAVID R. HILL, ONONDAGA INDIAN RESERVATION, NEW YORK

Mr. Hill was sworn by the chairman to testify the truth, the whole truth, and nothing but the truth.

The CHAIRMAN. You are secretary of the council that met out here last night and considered this situation?

Mr. HILL. Yes, sir.

Senator WHEELER. If they could be paid for their land, or if other land adjoining the reservation could be bought by the city or State and given them in lieu of the land that they would take from them, and that the Indians could own the land with the same privileges that they now have, do you think the members of the council would object to making such a transfer?

Mr. HILL. Well, personally, I wouldn't be in a position to say one way or another; that is, knowing as much as I do of the nature of their council. I think, with a thorough understanding with them, independently, with a full explanation of the exact conditions of the whole situation, perhaps there might be some consideration. But personally I wouldn't say one way or another.

Senator WHEELER. I understand, you don't want to commit yourself. But it does seem to me that if something could be worked out where the Indians would be benefited by it rather than be losing by it, they would be very foolish to stand in the way just because of the fact that they can do it. In other words, you wouldn't want to assume the attitude of the "dog in the manger." I think it would be very foolish for them, and my thought about the matter was, if they didn't perhaps trust the city officials, that they could perhaps have the Assistant Commissioner of Indian Affairs in Washington, or some one representing the Government look after them and protect them and see that they got the right kind of a deal that would be a benefit to them rather than a detriment.

Mr. HILL. Yes, sir.

Senator WHEELER. I appreciate that the Indians are very suspicious in their dealings with the white man, and I am inclined to believe that the treatment of the Indian by the white man has been one of the dark pages of our history, but I believe there is a new kind of feeling, so far as the Congress of the United States is concerned, with reference to the Indians in this country, and that they want to rectify the injustices that have been perpetrated on the Indians.

Mr. HILL. The understanding of all these men is that they approve of doing all their business direct with the department at Washington. They very often have made that statement, and they still recognize the treaty or agreement made with the Six Nations by the State of New York and the United States. They approve very strongly of having all their dealings direct with the Government at Washington.

Senator WHEELER. Well, I think it could be brought about, without a question of doubt, that this committee or some representative of the Government would be willing to look after the negotiations and see to it that something was worked out for the benefit of the Indians.

Mr. HILL. Yes.

The CHAIRMAN. Have you any further statement?

Mr. HILL. No, sir.

The CHAIRMAN. The resolution which Mr. Joshua Jones referred to may be inserted in the record, and without objection the same is ordered made a part of the record, reading as follows:

ONONDAGA RESERVATION, STATE OF NEW YORK,
November 25, 1929.

To whom this will concern:

The council of the Onondaga chiefs was called in the regular way to convene in the council house on this 25th day of November 1929; that matter of discussion was the building of a dam or dams to control the flood by the city of Syracuse upon the Onondaga Reservation.

We, the Onondaga chiefs of the Onondaga Tribe of Indians in council assembled have this day decided not to allow the building of this dam or dams upon the Onondaga Reservation for the following reasons, to wit:

That on account of the limited territory of lands available for farming or gardening upon the Onondaga Reservation.

That on account of the homes of our people are mostly within the tract or tracts of lands would be affected by these dams.

That the families will be deprived of their homes eventually.

That there is no other level tracts of land on the reservation that can be suitable for farming or gardening on account of the hilly conditions generally on the Onondaga Reservation.

That what we have as individual holdings in homes and the lands are the best locations on the Onondaga Reservation.

That by our own observation of the condition of the channel and the position of the Onondaga Creek, the dam or dams are not necessary to eliminate the damages from the floods.

That we realize we are free and independent people or nation, especially in the civil state of our affairs, having always observed the terms of the treaty made between the United States of America and the Six Nations of Indians in the State of New York—the following extract from the fourth articles of the treaty of November 11, 1794, made at Konondaigua in the State of New York, and from which we take our conclusions as the terms of our protection against any encroachments or that which will effect our tribal lands and property, or reservations held by the Six Nations of Indians in the State of New York, to wit, Article IV "The United States having thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas, and Senekas, and engaged never to claim the same, nor to disturb them or any of the Six Nations or their Indian friends residing thereon and united with them, in the free use and enjoyment thereof. Now, the Six Nations, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

ANDREW GIBSON.

EMMETT EYAM.

JOHN (his x mark) WHITE.

DAIAS SCANONDOOK.

ELIE SCANONDOOK.

WILSON (his x mark) JOHNSON, Sr.

JESSE LYONS.

JOSHUA JONES.

WILSON JOHNSON, Jr.

RUSBUS JONES.

DAVID R. HILL, *Clerk.*

The CHAIRMAN. Chapman Schenandoah is the next witness.

STATEMENT OF CHAPMAN SCHENANDOAH, ONONDAGA INDIAN RESERVATION, N. Y.

(Mr. Schenandoah was sworn by the chairman to testify the truth, the whole truth, and nothing but the truth.)

The CHAIRMAN. You live here on the Indian reservation?

Mr. SCHENANDOAH. Yes, sir.

The CHAIRMAN. You have lived here all your life, have you?

Mr. SCHENANDOAH. No, sir. I am an Oneidan by birth. I married one of the Onondaga women. That is what brought me here. I have three children.

The CHAIRMAN. How long have you lived here?

Mr. SCHENANDOAH. I have lived here 15 years, altogether.

I am so glad to see you Senators here. You seem to be a body of men trying to learn the facts and the feeling between all classes of men. I have got no feeling between my fellow men, only as individuals. I would like to ask you a question. Has an Oneida man got the right to buy, or can he hold title to, Onondaga land?

Senator WHEELER. I don't think so.

Mr. SCHENANDOAH. All right, that is all I want to know. Then an Oneida is worse off than a foreigner. A Swede can come to this Onondaga Reservation and raise a big family, and they have more rights than I have. Still, I believe in the confederacy of the Six Nations, so that one tribe can not make a treaty without the assent of the others. I have been in the Navy 12 years. I went through the Spanish-American War, I have tried to save money and I bought my home outright here on the reservation.

The CHAIRMAN. Who did you buy it from?

Mr. SCHENANDOAH. From one of the individual Indians. All I own is here in the reservation, but I have to keep on paying money. Now, how do I stand on that property that I bought?

Senator WHEELER. You have only the right to occupancy as long as you live.

Mr. SCHENANDOAH. As long as I live. Can I dispose of it in any way?

Senator WHEELER. You can not give a fee simple title to it.

Mr. SCHENANDOAH. How about these Indian laws? The Oneidas have no written laws, they have ancient laws—unwritten laws. Here, we have statutes—written law—and we have to go by it.

The CHAIRMAN. What do you mean by "it"—the written laws of the State of New York?

Mr. SCHENANDOAH. The laws of the United States. The United States is the Supreme Court, and the State is nothing only a straw. The State of Virginia tried to get away from the States and it cost a million lives, and the citizens are paying for it to-day. Now, as an individual I am going through this life the same as any other man. I have enemies among my own people, and let me tell you something—the Indian has stumbling blocks to overcome in making progress by lazy white men and lazy Indians holding him back. My children are Onondagas, they are not Oneidas. It is a matter of interest to me about my property, and I thought there was a way of solving this problem. I can't take anything with me when I am dead, that is a certainty.

The CHAIRMAN. Of course, we have no authority as to that. There should be some solution of it.

Mr. SCHENANDOAH. Yes; there ought to be some solution of it.

Senator WHEELER. That is all.

The CHAIRMAN. The next witness will be Mr. Logan.

STATEMENT OF LOUIS LOGAN, CLEVELAND, OHIO

The CHAIRMAN. Give you full name to the reporter.

Mr. LOGAN. Louis Logan.

The CHAIRMAN. What kind of Indian do you claim to be?

Mr. LOGAN. Oneida.

Senator WHEELER. Didn't you come down to Washington some time ago?

Mr. LOGAN. Yes, sir.

Senator WHEELER. And didn't you tell me then that you were a Blackfeet?

Mr. LOGAN. No, sir. Senator Frazier remembers me.

The CHAIRMAN. As I recall, you were working at some place out in Ohio.

Mr. LOGAN. Yes, sir.

The CHAIRMAN. Are you still working out there?

Mr. LOGAN. Yes, sir.

The CHAIRMAN. What are those letters you have there?

Mr. LOGAN. These are copies of letters from Secretary of State Kellogg to Senator King, and Secretary Roy O. West to Senator King, and from Secretary Wilbur to Senator Frazier. It is stated in this letter from Secretary Wilbur that the Interior Department has no jurisdiction over the Onondaga Reservation, and I argued with them that the department did have jurisdiction, and not the State. These letters were written after I had argued with them at that time.

The CHAIRMAN. Do you want those letters in the record?

Mr. LOGAN. Yes, sir.

The CHAIRMAN. They may go in. You are a member of one of the Six Nations?

Mr. LOGAN. Yes, sir—Oneida.

The CHAIRMAN. What place do you call your home?

Mr. LOGAN. We have no home now. They sold our reservation, and we are homeless.

(The letters above referred to are printed here, as follows:)

JANUARY 17, 1929.

MY DEAR SENATOR KING: I am in receipt of your letter of January 2, 1929, asking whether there is a treaty between the United States and Great Britain which will protect the Onondaga Indians from the contemplated act of the legislature of the State of New York to build a dam on their reservation, and inclosing a communication from Chief L. Logan, Cleveland, Ohio, relative thereto.

In reply you are advised that there appears to be no treaty provision between the United States and Great Britain in which the interests of Indians in lands is mentioned.

While the department is the custodian of original treaties between the United States and Indians, it is not supplied with copies thereof for distribution. They are printed, however, in volume 2, Senate Document No. 319, Fifty-eighth Congress, second session, entitled "Indian Affairs, Laws and Treaties." This volume contains several treaties between the United States and the six nations which include the Onondaga Indians. Copies of these treaties, which were concluded on October 22, 1784, January 9, 1789, November 11, 1794, and January 15, 1838, appear, respectively, on pages 5, 23, 34, and 502.

In connection with your inquiry, your attention is called to an interesting discussion on American Indians which appears on pages 30 and following, of Volume I of Moore's Digest of International Law. This publication, as well as the aforementioned Senate document, may be consulted in any large public library.

Inasmuch as the Office of Indian Affairs of the Interior Department may be able to give you further information, a copy of your communication, together with copies of the department's reply thereto and of Chief Logan's letter, have been referred to that office.

I am, my dear Senator King, sincerely yours,

FRANK B. KELLOGG.

HON. WILLIAM H. KING,
United States Senate.

DEPARTMENT OF THE INTERIOR,
Washington, January 23, 1929.

HON. WILLIAM H. KING,
United States Senate.

MY DEAR SENATOR KING: The receipt is acknowledged, by reference from the State Department, of a copy of your letter of January 2, 1929, with which you inclosed a letter from Chief L. Logan, P. O. box 617, Cleveland, Ohio, concerning the proposal of the State of New York to build a dam on the Onondaga Indian Reservation, N. Y.

The Onondaga Reservation is in one of the original 13 States, and the United States never had title to any of the lands therein.

In the early days the United States made a number of treaties with Onondaga and other Indians in the State of New York, and by articles 2 and 3 of the treaty of November 11, 1794 (7 Stat. L. 44), they were guaranteed "the free use and enjoyment" of their lands. The treaty further provided that "the said reservations shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase."

In view of the wording of the treaty and the fact that the State of New York is one of the original 13 States of the United States, and the further fact that Congress has enacted no specific laws which would definitely authorize this department to take definite jurisdiction over the affairs of the New York Indians, we have exercised only a nominal jurisdiction over the Indians inhabiting that State.

The Indians have in time past sold part of their reservation to the State of New York and to individuals, and if, as it appears, the State is exercising the right of eminent domain over the lands of this reservation, there appears to be nothing this department can do to furnish any relief in the matter.

Very truly yours,

ROY O. WEST.

DEPARTMENT OF THE INTERIOR,
Washington, April 4, 1929.

HON. LYNN J. FRAZIER,
United States Senate.

MY DEAR SENATOR FRAZIER: I have your letter of March 29, 1929, inclosing a communication to you from Louis Logan, P. O. box 617, Cleveland, Ohio, in which he made a protest against the proposal of the State of New York to build a dam on the Onondaga Reservation in that State.

A letter has been received from Mr. Logan in which practically the same statements were made as were contained in the letter addressed to you. Under date of March 30, 1929, Mr. Logan was advised that in the early days the United States made a number of treaties with the Onondaga and other Indians in New York, and by articles 2 and 3 of the treaty of November 11, 1794 (7 Stat. L. 44), they were granted "the free use and enjoyment" of their lands. The treaty further provided that "* * * the said reservations shall remain theirs, until they choose to sell the same to the people of the United States, who have the right to purchase."

In view of the working of the treaty, and the fact that Congress has enacted no specific laws which would definitely authorize this department to assume active jurisdiction over the affairs of the New York Indians, we have exercised only a nominal control over them.

These Indians have, in times past, sold art of their reservations to the State of New York and to individuals, and if the State is exercising the right of eminent domain over the lands mentioned, there appears to be nothing this department

can do, in the absence of legislation by Congress, to furnish any assistance in the matter.

Until legislation has been provided by Congress these Indians, if they do not desire that the dam be built, should appeal to the courts of the State of New York for what they deem protection in connection with the anticipated condemnation proceedings.

The inclosure with your letter is returned. There is also inclosed a copy of the letter dated March 30, 1929, addressed to Mr. Logan.

Very truly yours,

RAY LYMAN WILBUR.

Senator WHEELER. Did the Secretary of the Interior advise you that the Federal Government has no jurisdiction over the New York Indians?

Mr. LOGAN. Yes, sir.

Senator WHEELER. Mr. Chairman, did not the present Secretary of the Interior, Mr. Wilbur, advise this committee that the United States did have jurisdiction over the New York Indians?

Mr. GRORUD. At the request of the chairman, Senator Frazier, I prepared a memorandum or opinion on the matter of jurisdiction—I held that the Federal Government has jurisdiction and not the State of New York. Senator Frazier sent my memorandum to the Secretary of the Interior asking that the Secretary make a request of the Attorney General for an opinion on the matter, and whether or not he concur with the views expressed in my memorandum.

Senator WHEELER. Did the committee get an expression from the Attorney General?

Mr. GRORUD. No; but the Secretary of the Interior addressed a communication to the chairman, Senator Frazier, in which he concurred with the views expressed in my memorandum to the committee.

Senator WHEELER. Your statement does not seem to coincide with the position which the department has heretofore taken before this committee, and otherwise.

Mr. GRORUD. No, it does not; however, we discussed this matter with Mr. Wilbur recently; he now seems to be convinced that the Federal Government has the plenary power and jurisdiction in dealing with the New York Indians. He has assured us that there will be no approval by the department of any agreement or proposed legislation which would alienate any Indian lands for the use of flood protection for the city of Syracuse, until such time as the Senate committee has had an opportunity to make its investigation and recommendations respecting this matter.

Senator WHEELER. I suggest that this memorandum and the correspondence exchanged between the Secretary of the Interior and the committee be inserted in the record.

The CHAIRMAN. I think that this should be done. Without objection, it is so ordered.

(The letters above referred to are printed here, as follows:)

WASHINGTON, D. C., *September 30, 1929.*

HON. LYNN J. FRAZIER,

*Chairman Senate Committee on Indian Affairs,
Washington, D. C.*

DEAR SENATOR: In response to your request for an opinion concerning the New York Indians as to whether the United States or the State of New York has jurisdiction over these Indians, and if the United States has jurisdiction over these Indians, is such jurisdiction conclusive?

In general it may be said that the United States is fully empowered, whenever it seems wise to do so, to assume full control over tribes and their affairs, to

prescribe the courts in which all controversies to which the Indian may be a party shall be submitted, to determine who are the citizens of a tribe, to allot and distribute the tribal lands and funds among them, and to terminate the tribal government. And while for years the Federal authority was exercised largely by means of treaties, the general government has the right and power to abandon this method and govern the Indians exclusively by acts of Congress.

United States v. New York Indians (173 U. S. 464, 43 L. Ed. 769).

United States v. Dawson (15 How. 467, 14 L. Ed. 775).

United States Fidelity, etc., Co. v. Hanson (36 Okla. 459, 129 Pac. 60; Ann. Cas. 1915A 402.)

United States v. Fisher (223 U. S. 95, 56 L. Ed. 364).

Cherokee Nation v. Whitmire (223 U. S. 108, 56 L. Ed. 370).

Gritts v. Fisher (224 U. S. 640, 56 L. Ed. 928).

United States v. Kagama (118 U. S. 375, 30 L. Ed. 228).

Lone Wolf v. Hitchcock (187 U. S. 553, 47 L. Ed. 299).

United States v. Hamilton (233 Fed. 685; N. Y.).

The United States has steadily and uniformly asserted its jurisdiction over the Indians of the Six Nations of New York and other New York tribes.

New York Indians (5 Wall. (U. S.) 761, 18 L. Ed. 708).

Fellows v. Blacksmith (191 How. (U. S.) 366, 15 L. Ed. 684).

People v. Daly (212 N. W. 183, 105 N. E. 1048, Ann. Cas. 1915D, 367).

People v. Pierce (41 N. Y. S. 858).

United States v. Boylan (256 Fed. 468 (1919) 265 Fed. 165).

U. S. v. Hamilton (233 Fed. 685 (1915)).

It has been repeatedly held by the courts, that the Constitution of the United States conferred jurisdiction over the Indian tribes and their property, in the several States of the Union. This has never been successfully denied. *United States v. Boylan* (256 Fed. 486 (1919)).

In the case of the *United States v. Nice* (241 U. S. 591), it holds:

1. That the allotment of lands to Indians to hold and own in severalty does not dissolve tribal relation or release the Indian from the control of the Congress of the United States.

2. That it is for Congress and not the courts to decide when tribal existence shall terminate.

3. That when Congress terminates the tribal relations it does so in explicit terms and not by implications.

4. That the granting of citizenship does not terminate the tribal status and he remains an Indian and an Indian ward as well.

Notwithstanding the Federal jurisdiction over the Indian tribes, it is held that in absence of conflicting legislation by Congress, the State within whose borders the tribe is located may exercise police power over the person and property of such Indians so far as necessary to preserve peace of the United States and protect the tribes from intrusion and imposition and they therefore prohibit settlement on Indian lands of persons other than Indians unless such legislation is in conflict with the Statutes or treaties of the United States.

New York v. Dibble (21 How. 366, 16 L. Ed. 147).

Beragon v. Sero (137 Wis. 236, 118 N. W. 839).

Although the State of New York has enacted laws conferring upon Indians certain powers regulating their own affairs, the Federal Government has never relinquished its sovereignty over them. The Supreme Court of New York has upheld the claims of Congress to legislate on all Indian affairs and the jurisdiction of the State courts of New York must give way before the higher authority which the statute vests in the Federal courts.

People v. Daley (112 N. Y. 183, 105 N. E. 1028).

People v. Pierce (18 Wis. 83, 41 N. Y. 863).

The constitution of a State or any act of its legislature can not prevent the application of any act of Congress to the Indian tribes which, though residing within a State, are subject to the control of the Federal Government.

Worcester v. Georgia (6 Pet. 515, 8 L. Ed. 483).

United States v. Holliday (3 Wall. 407, 18 L. Ed. 182; note, Am. Dec. 193).

The right to extinguish the Indian occupation is vested exclusively in the United States. (*Seneca Nation of Indians v. Christie*, 26 N. Y. 122, 27 N. E. 275 (1891).)

In *Fellows v. Blacksmith* (19 How. 366, 15 L. Ed. 684) it was held that the Tonawanda Indians (New York Indians) could be compelled to remove from their reservation only by action of the United States and that the right of the Indians in the land can not be interfered with or determined, except by the United States. (See also *Worcester v. Georgia*, 6 Pet. 515.)

The right of possession and occupancy of the Indians have been held to be as sacred as the title of the United States to the fee; it is certain that it can not be interfered with or determined except by the United States.

The New York Indians (5 Wall. 761, 18 L. Ed. 708).

Mitchell v. United States (9 Pet. 711, 9 L. Ed. 283).

United States v. Cook (19 Wall. 591, 22 L. Ed. 210).

Leavenworth, etc., Railroad Co. v. United States (92 U. S. 733, 23 L. Ed. 634).

Buttz v. Northern Pacific Ry. Co. (119 U. S. 55, 30 L. Ed. 330).

Lone Wolf v. Hitchcock (187 U. S. 553, 47 L. Ed. 299).

Wisconsin v. Hitchcock (201 U. S. 202, 50 L. Ed. 727).

Some have advanced the view that the New York Indians have a different status than the western Indians. Such contention, however, is not upheld by the courts and is untenable.

People v. Daly (212 N. Y. 183, 105 N. E. 1048 Ann. Cas. 1916D 367 (1914)).

While the United States has no ownership in Indian lands in any of the original thirteen States, the native Indians who hold and occupy such lands are wards of the United States Government.

United States v. Boylan (256 Fed. 468).

Seneca Nation v. Christie (126 N. Y. 122, 27 N. E. 275).

The State of New York has repeatedly recognized the authority of the General Government over them, and the latter has acquiesced in the right of the State to deal with them.

Seneca Nation v. Christie (126 N. Y. 122).

From my examination of treaties, statutes, and court decisions, it is my opinion that the Congress of the United States has plenary power and general jurisdiction over the New York tribes and therefore your committee under the authority of the provisions of resolution 79, Seventieth Congress, first session (act of February 1, 1928), has the power and authority to make investigation, hold hearings and report its findings to Congress respecting the conditions of the said New York Indians and the effect of the laws which Congress has passed and the operation of the same.

There seems to be a very grave situation confronting the Onondaga Indians at the present time in relation to a proposed flood-control project which is now being planned and adopted by the city of Syracuse. The plan which the Syracuse Intercepting Sewer Board has recommended for adoption provides for the construction of two dams on the Onondaga Reservation. These proposed dams would flood a large area of the best lands of the reservation. The area flooded would approximate 680 acres out of a total area of the reservation of about eight sections.

By the act of April 15, 1929 (chap. 658, N. Y. Laws 1929), the New York Legislature authorized the city of Syracuse, for the purpose of acquiring Indian lands and premises for a flood-control project, to negotiate for lease, purchase or acquire the necessary Indian lands to the same extent as the State itself might or could do in respect to such lands.

Up to this time, the city of Syracuse has been unable to come to an agreement with the chiefs council of the Onondaga Nation and it would seem that there is no likelihood of reaching an agreement with the Indians. The Indians contend that if the proposed project is constructed it would practically destroy the usefulness of the entire reservation, as well as having a demoralizing effect on the Indians. However, the city of Syracuse, through its mayor and other officials, is now threatening to take such steps as are necessary for the purpose of acquiring such lands and premises by condemnation proceedings or otherwise. I find no law which will sanction the taking of these lands by condemnation proceedings. Neither the laws of the United States nor the laws of the State of New York recognize such a mode of extinguishing the rights and title of the Indians in their lands and reservations.

The proceedings which have heretofore been generally followed in similar cases when leases, easements or the alienation of lands from Indians have been sought by purchasers, lessors, etc., some sort of an agreement or consent from the chiefs council has first been obtained, followed by a submission to the Secretary of the Interior for approval, who, after such approval would recommend to Congress the needed legislation.

In order that an injustice may not be done in these premises, I would suggest that the Secretary of the Interior be requested not to approve any contracts, agreements, or any other form of consent purporting to give any right in and to or the alienation of any lands belonging to the Onondaga Tribe for the purpose of flood protection for the city of Syracuse or otherwise until such time as the Senate committee has had an opportunity to be fully advised in the premises.

This matter concerning the New York Indians would seem that we have been dealing in the past with dual relations growing out of peculiar conditions which have been a vexing problem for a hundred years or more.

If the committee can see its way clear to make an attempt to solve this perplexing problem, it will do a great service to the Indians, to the State of New York and the people in general.

Respectfully,

A. A. GRORUD.

SEPTEMBER 30, 1929.

HON. RAY LYMAN WILBUR,

Secretary of the Interior, Washington, D. C.

MY DEAR MR. SECRETARY: I am inclosing herewith an opinion by Mr. Grorud which seems to hold that the United States has plenary power and jurisdiction over the New York Indians. Heretofore it would seem that the Bureau of Indian Affairs has seemed to exercise only limited jurisdiction over these Indians and that the State of New York has exercised some sort of jurisdiction over them. It also seems to the writer that this has led to considerable confusion and I personally feel that we should either assume full jurisdiction or none. I am desirous of having a definite opinion from the Attorney General as to what jurisdiction, if any, the Government has and what jurisdiction, if any, the State of New York has. Will you kindly submit this matter to the Attorney General of the United States for his concurrence or nonconcurrence in the views expressed in said opinion by Mr. Grorud?

There seems to be a matter of immediate consideration relative to the Onondaga Tribe situated near the city of Syracuse. It would seem that the city of Syracuse is attempting to acquire certain Indian lands for flood protection. My information is that the Indians are not in favor of having their lands taken for this purpose.

In view of the facts herein stated, it would seem that no injustice would be done in the premises if the Secretary withheld approval of any contract or agreement which might be presented to the department for approval or recommendation by the city of Syracuse, or otherwise.

Very truly yours,

LYNN J. FRAZIER, *Chairman.*

THE SECRETARY OF THE INTERIOR,
Washington, October 8, 1929.

HON. LYNN J. FRAZIER,

Chairman Committee on Indian Affairs, United States Senate.

MY DEAR SENATOR FRAZIER: I have your letter of September 30, 1929, transmitting a discussion by Mr. A. A. Grorud, of the New York Indian situation, and requesting that the matter be submitted to the Attorney General of the United States for his opinion in the matter.

In view of the perplexing situation pertaining to the New York Indians, Mr. Grorud's letter transmitted by you will be given a careful study, and you will be later advised as to what action can or should be taken in regard thereto.

Very truly yours,

RAY LYMAN WILBUR.

DEPARTMENT OF THE INTERIOR,
Washington, October 12, 1929.

HON. LYNN J. FRAZIER,

*Chairman Committee on Indian Affairs,
United States Senate.*

MY DEAR SENATOR FRAZIER: At a hearing before a subcommittee of the Committee on Indian Affairs of the United States Senate, February 27, 1929, it was moved that "the Indian Bureau and the Department of the Interior be invited and requested to make a special study of the New York Indian situation and advise the Congress of their legal rights together with such suggestions for legislation as the Department of the Interior will suggest and recommend."

The situation with respect to the Indians in the State of New York is somewhat peculiar and is entirely different from that of most of the other Indian problems with which this department must deal, particularly those west of the Mississippi River. This is due in large measure to the fact that New York was one of the

thirteen original colonies and the legal title to none of the lands in that State is in the United States, other than such as may have been acquired by purchase, or by condemnation for public purposes, as Federal buildings, military posts, etc. Again, shortly after the Revolutionary War, particularly prior to the adoption of our Federal Constitution and even since that date, under the doctrine of State rights so strongly prevalent in those days, the State of New York has dealt directly with these Indian tribes claiming lands within her borders. In some instances such transactions were had with the sanction of the Federal Government and in others without such sanction other than such as might be implied. That is, as to those transactions between the Indians and the State not expressly sanctioned, no protest or opposition thereto has ever been raised, at least in so far as the legislative and executive branches of the Federal Government are concerned.

The State of New York has always assumed the burden of establishing and maintaining schools for the education of the Indian youth within her borders; has constructed improved highways through the reservations there and to some extent at least has enforced sanitation, health, and other public measures of this kind among these people; all without expense to the Federal Government. In short, the State has heretofore exercised the usual prerogatives of sovereignty and jurisdiction over these Indians, while the Federal Government to a large extent has not. This may be due in some measure to the fact that the Congress has never expressly directed this or any other department of the Federal Government to assume active control and supervision over the New York Indians such as is found in the act of July 27, 1868 (15 Stat. L. 228), with respect to the Cherokee Indians of North Carolina. Having no such legislation at hand and having no appropriations expressly made available for the purpose of carrying on any extensive activities with respect to the Indians in New York, this department has not felt empowered to assume active control of the situation there, such as is now exercised over most of the other Indians of the United States. This should not be understood to mean that we now recommend or advocate legislation by Congress looking to an enlarged jurisdiction in this department over the Indians of New York, but rather is here pointed out solely for the purpose of disclosing the basic reason why the activities of the Federal Government and of this department with respect to these Indians in the State of New York have been largely passive rather than active.

At sundry times in the past the situation with respect to the Indians in New York has been presented to Congress, either responsive to legislation directing an investigation and report, or else in connection with bills then pending looking to an allotment in severalty of the lands in the reservations in that State. In this connection see the act of August 15, 1894 (28 Stat. L., 301), and Senate Document No. 53 (53d Cong., 3d sess.) also House bill No. 7262, Fifty-eighth Congress, Second session, known as the Vreeland bill, and House bill No. 18735, Sixty-third Congress, known as the Clancy bill; the two bills last mentioned being both designed to provide for an allotment of the lands belonging to these Indians. House Document No. 1590 (63d Cong., 3d sess.), containing the report of this department on the bill last mentioned, presents an exhaustive résumé of the situation with respect to the Indians in New York, including an historical outline of the origin and locus of the title to the lands within each of the several Indian reservations in that State. No substantial change has occurred in the situation with respect to any of these reservations since the submission of that report in 1914, and in order to avoid unnecessary repetition of the facts disclosed by that report, it is suggested that your committee consider the report here made largely as supplemental to the one presented in 1914.

Congress undoubtedly has ample power and jurisdiction over the Indians in New York to enact such legislation as may be deemed necessary in connection with their affairs. Whether that should be by way of increasing Federal activities in their behalf or by strengthening the authority and prerogatives of the State in the matter should be seriously considered. In view of the fact that the State has heretofore always assumed the right to exercise sovereignty and jurisdiction over these people, I am strongly moved to recommend that the activities of the State in this respect be in no manner curtailed.

Rather if any legislation by Congress along such lines is now to be had, that it be with a view of removing any doubts that may have heretofore existed with respect to the authority and jurisdiction of the State in the premises. Legislation by Congress expressly subjecting the Indians in New York to the laws of that State, without impairing any of their property or rights under existing treaties with the United States, would remove from the field of controversy the frequently

mooted question of jurisdiction, State or Federal, over these Indians, and would undoubtedly prove helpful, particularly in such matters as the enforcement of marriage and divorce laws of the State, and crimes and misdemeanors committed by the Indians within the existing reservations there. Such legislation, while helpful, would afford only a partial solution of the problem, as it would still leave the property rights of those Indians under existing treaties with the United States to be dealt with. In this connection it may be pointed out that by the treaty of November 11, 1794 (7 Stat. L., 44), with the Six Nations of New York, these Indians were practically guaranteed peaceful possession of their soil until they chose to sell the same "to the people of the United States, who have the right to purchase." (Art. 2.) Just what is intended by the expression "people of the United States" is not entirely clear; that is, assuming these Indians to be ready to part with their title whether the same is to be sold only to the United States Government, or may be sold to the State, or even to nonalien third parties, including individual citizens of the United States, artificial entities organized pursuant to State laws as a corporation or even to unincorporated joint stock companies or associations. In this latter connection, attention is invited to pages 15 to 19 inclusive, of House Document No. 1590 (63d Cong., 3d sess.), with respect to the claims of the Ogden Land Co., successor in interest to the Holland Land Co., in and to the lands embraced in the Allegany, Cattaraugus, and a part of the Tuscarora Reservations in New York.

Frankly, the situation with respect to these Indians is so complex that before offering any definite recommendations as to the form of legislation best calculated to afford an effective solution of the entire problem, and in view of the jurisdiction heretofore exercised by the State of New York over the Indians within her borders, I am moved to suggest that your committee consider the advisability of inviting representatives of the State to present their views with respect to the matter.

We will be glad, of course, to cooperate at all times with any representatives of the State and other parties interested in working out an effective solution of the problem, legislative and otherwise.

Very truly yours,

RAY LYMAN WILBUR.

The CHAIRMAN. Is there anything further?

Mr. BRUCE. If I may, Senator, I should like to say a word to the Indians while they are here.

The CHAIRMAN. Very well.

STATEMENT OF H. DUANE BRUCE, CORPORATION COUNSEL OF THE CITY OF SYRACUSE, N. Y.

Mr. BRUCE. I want to say on behalf of the Syracuse Intersecting Sewer Board—I have been asked to say this because we have more Indians here than we can get together at one time, that they would like to meet with your chiefs and with any of your people who are interested in this subject, for the purpose of explaining what they want to do and to get your ideas as to what you might want to do. We want to assure all of you here that there isn't any intention on the part of the city of Syracuse or any city official to take anything in the Indian reservation without leaving you in just as good condition as you are now. That is our idea, and the sewer board wants to have a chance to meet with you so that we can sit down and talk the subject over.

The CHAIRMAN. We appreciate the interest that has been taken in this hearing and thank the witnesses and the officials here that have come to give us assistance, as well as the Attorney General's department and other State officials.

If there is nothing further to come before the committee we will close now, as we want to take a trip out to the reservation.

(Whereupon, at 3.30 o'clock p. m., the committee adjourned, subject to the call of the chairman.)

SURVEY OF CONDITIONS OF THE INDIANS OF THE UNITED STATES

FRIDAY, JANUARY 3, 1930

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INDIAN AFFAIRS,
Hogansburg, N. Y.

The subcommittee met, pursuant to call of the chairman, at 11 o'clock a. m., in the auditorium.

Present: Senators Frazier (chairman) and Wheeler.

Present also: Henry S. Manley, assistant attorney general New York State, Albany, N. Y.; Richard W. Wallace, assistant director State Department of Social Welfare, Albany, N. Y.; Harry M. Hirsh, superintendent alien and Indian poor, State Department of Social Welfare, Albany, N. Y.; John B. Hague, chief specials schools bureau, State Department of Education, Albany, N. Y.; Leslie M. Saunders, State attorney for the St. Regis Indian Reservation, St. Regis Falls, N. Y.; O. J. Kellogg, Seymour, Wis.; Albert A. Grorud, special assistant to the subcommittee; and Nelson A. Mason, clerk of the committee.

The CHAIRMAN. This subcommittee will please come to order. This hearing was called under authority of Senate Resolution 79 which authorizes the Senate Committee on Indian Affairs to make an investigation of the Indian conditions throughout the United States. We want to learn the general conditions among the Indians on the St. Regis Reservation. We can not hold a length hearing to-day, but will try to hear briefly all those who feel they can assist us in arriving at an understanding of the situation here.

The first witness we will call is Chief Mitchell Laughing.

STATEMENT OF CHIEF MITCHELL LAUGHING, HOGANSBURG, N. Y.

(The witness was sworn by the chairman.)

The CHAIRMAN. State your name to the reporter.

Mr. LAUGHING. Mitchell Laughing.

The CHAIRMAN. You live here in this community?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. You are one of the chiefs here?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. And you are on the executive council or the chiefs' council?

Mr. LAUGHING. The chiefs' council.

The CHAIRMAN. Have you lived here all your life?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. About how many Indians have you here on this St. Regis Reservation on the New York side?

Mr. LAUGHING. On the New York side I think there are between 1,500 and 1,600. I can't tell you exactly. Our agent here might know.

The CHAIRMAN. Tell us briefly what the conditions are here among your people.

Mr. LAUGHING. The conditions? Well, I can't tell it all at once.

Senator WHEELER. Just go ahead and make the statement in your own way.

Mr. LAUGHING. Well, what do you mean?

The CHAIRMAN. The living conditions, health conditions, financial conditions. What are the opportunities here for education of the children? Just tell us all you know about the general conditions.

Mr. LAUGHING. Well, they are educating the children now, but in my time there was hardly any education. Of course I have very little education—very little.

The CHAIRMAN. The children now attend schools supplied by the State of New York; is that right?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. That is, up to the eighth grade, as I understand it.

Mr. LAUGHING. Yes; as far as the eighth grade.

The CHAIRMAN. Then after the eighth grade where do your boys and girls go to school?

Mr. LAUGHING. Once in a while they go to high school, providing their parents are able to pay their expenses.

The CHAIRMAN. Their parents pay their expenses then?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. And some go to Government schools?

Mr. LAUGHING. There are some that go away to Government schools.

The CHAIRMAN. What about the health conditions here on this reservation?

Mr. LAUGHING. Why, the health conditions are good. Of course there is now and then some sickness.

The CHAIRMAN. Is there any tuberculosis among your people?

Mr. LAUGHING. No; not to amount to anything.

The CHAIRMAN. Is there any of this eye disease among your people known as trachoma?

Mr. LAUGHING. No; well, there was once a case of it. She grew up, I know.

The CHAIRMAN. What do your people do for a living?

Mr. LAUGHING. Well, sir, we do a little farming, odd jobs, and things like that.

The CHAIRMAN. Most of them farm, would you say?

Mr. LAUGHING. Why, no; not most of them. Most of it is common labor.

The CHAIRMAN. Where do they get the opportunity for common labor? Do they go away to the cities?

Mr. LAUGHING. Anywhere they can get a job. Sometimes they walk back in 40 or 50 miles.

The CHAIRMAN. Do you have trouble getting enough work for your men that want to work?

Mr. LAUGHING. Yes; quite a lot of trouble. They don't get the right work right around here.

The CHAIRMAN. Quite a lot of your Indians are farmers, I understand.

Mr. LAUGHING. Yes; quite a few of them.

The CHAIRMAN. How much land have you on the New York side of your reservation here?

Mr. LAUGHING. Well, we should have, by right, 6 miles square—a mile square at Massena and a mile square there at Fort Covington. We are supposed to have that.

The CHAIRMAN. You say you are supposed to have that?

Mr. LAUGHING. Well, yes.

The CHAIRMAN. Well, what do you have?

Mr. LAUGHING. We haven't got half of it.

The CHAIRMAN. This amount that you speak of—where did you get that, through treaties?

Mr. LAUGHING. Yes, sir.

The CHAIRMAN. Dating how far back?

Mr. LAUGHING. 1796.

The CHAIRMAN. How much land have you now, approximately?

Mr. LAUGHING. I don't know. It never was surveyed—what we have.

The CHAIRMAN. Well, you know about the distance in miles, each way, on this reservation?

Mr. LAUGHING. Well, it is supposed to be about 3 miles wide and 12 miles long; it ain't square.

The CHAIRMAN. Three miles wide and 12 miles long; of course that would make 6 square miles.

Mr. LAUGHING. Well, yes; that is the reservation.

Mr. HERNE. This will give you an idea [exhibiting paper to chairman]. That is our reservation, right here.

Senator WHEELER. You are supposed to have 6 miles square here; is that it?

Mr. HERNE. Yes; we are supposed to have it.

Mr. GRORUD. Chief, you spoke of the treaty of 1796?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Was that a treaty with the State of New York?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Have you the original treaty?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Could you exhibit it to the committee?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Have you it here?

Mr. LAUGHING. No; I can go and get it. It is up in the house.

Mr. GRORUD. Will you produce it for the committee after lunch?

Mr. LAUGHING. All right; yes.

Mr. GRORUD. Now, referring to the mile square at Grass River—how was that taken away from the Indians, or from the chiefs here?

Mr. LAUGHING. I can't tell you.

Mr. GRORUD. Under what agreement, or what treaty?

Mr. LAUGHING. Well, this treaty of 1796 that I spoke of, it tells right in there that there is a mile square there, 1 mile.

Mr. GRORUD. And that was reserved—

Mr. LAUGHING. Reserved with the 6 miles square.

Mr. GRORUD. Now, when that land was divested by the Indians who lived there, was there a grist mill or a flour mill situated there?

Mr. LAUGHING. There was a grist mill there, I understand. I have seen a grist mill there, but it was not in operation then. It was occupied by white people.

Mr. GRORUD. When was this—how long ago?

Mr. LAUGHING. Oh, about 35 years ago.

Mr. GRORUD. That was situated somewhere near Massena, N. Y.?

Mr. LAUGHING. Yes.

Mr. GRORUD. Who occupies that strip of land, the mile square?

Mr. LAUGHING. Why, there is a village right on it; then the Aluminum Co. has their plant right on there.

Mr. GRORUD. What village is on it?

Mr. LAUGHING. Massena.

Mr. GRORUD. The village of Massena is situated on the mile square?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. And the Aluminum Co. has a power plant there?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. When was that built there?

Mr. LAUGHING. Why, now, I couldn't tell you just when.

Mr. GRORUD. Approximately when?

Mr. LAUGHING. About 15 years ago.

Mr. GRORUD. Was it not somewhere about 1898?

Mr. LAUGHING. Thirty-two years ago.

Mr. GRORUD. How did the Aluminum Co. acquire the property?

Mr. LAUGHING. I don't know anything about it. I can't tell you.

Mr. GRORUD. They have spent a lot of money there?

Mr. LAUGHING. Yes, sir. They have a factory there. It is a big factory, and they have spent a lot of money there.

Mr. GRORUD. Can you say about how much?

Mr. LAUGHING. I understand \$13,500,000, and it has been expanding ever since.

Mr. GRORUD. Power development has taken place there?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. You as chief have never sold or conveyed that property to any one?

Mr. LAUGHING. Never.

Senator WHEELER. How do they claim title to it at all? As I understand it, you had a treaty in 1796, did you?

Mr. LAUGHING. Yes, sir.

Senator WHEELER. And under your treaty of 1796 you were given this land up here by the State of New York, is that it?

Mr. LAUGHING. By the State of New York.

Senator WHEELER. The State of New York set aside this reservation for you by treaty in 1796, is that correct?

Mr. LAUGHING. Yes; it was set aside and ratified by McComb.

Senator WHEELER. After that you entered into another treaty?

Mr. LAUGHING. No; not that I know of.

Senator WHEELER. How was this tract of land divested, then, from the Indians?

Mr. LAUGHING. I couldn't tell you.

Senator WHEELER. Wasn't there some treaty about it?

Mr. LAUGHING. Why, I never seen it. I have seen the strip that they claim the Indians sold.

Senator WHEELER. They claim that the Indians sold it?

Mr. LAUGHING. Yes; but I don't know who sold it, or what he is.

Senator WHEELER. Have you ever looked up the records to find out anything about it at all?

Mr. LAUGHING. No.

Senator WHEELER. Why haven't you looked up the records? You are chief here. Why haven't you traced it? Why haven't you looked up the records?

Mr. LAUGHING. Why, I never did.

Senator WHEELER. Did you have any attorneys look it up for you?

Mr. LAUGHING. No—well, yes; the United States Indian agent at Salamanca looked it up.

The CHAIRMAN. Do you know what he found?

Mr. LAUGHING. Yes; he found, just as I said, that it was sold, but didn't give any definite information as to who bought it or who sold it.

Senator WHEELER. Don't you think, as one of the chiefs, it would have been a good thing for you to look into it, if you claim title to it?

Mr. LAUGHING. Well, I never did.

Senator WHEELER. Now, coming down to the St. Regis River. Where is the St. Regis River located with reference to this reservation?

Mr. LAUGHING. Right here.

Mr. GRORUD. Does it run through the reservation?

Mr. LAUGHING. Yes.

Mr. GRORUD. What have you to say as to whether or not any power projects are under construction or any power developed on the St. Regis River?

Mr. LAUGHING. Yes, there is.

Mr. GRORUD. Within the boundaries of the St. Regis Reservation?

Mr. LAUGHING. Right within it.

Mr. GRORUD. Who is developing the power sites—the Malone Power & Light Company?

Mr. LAUGHING. Yes.

Mr. GRORUD. The Malone Power & Light Company is a subsidiary of the Northeastern Power & Light Company?

Mr. LAUGHING. Yes.

Mr. GRORUD. How did they acquire these power sites?

Mr. LAUGHING. How did they acquire the power sites?

Mr. GRORUD. Yes.

Mr. LAUGHING. I couldn't tell you.

Mr. GRORUD. Did they negotiate with you?

Mr. LAUGHING. No, sir.

Mr. GRORUD. Or with the council?

Mr. LAUGHING. No, sir.

Mr. GRORUD. When did they start construction?

Mr. LAUGHING. Last spring.

Mr. GRORUD. About a year ago?

Mr. LAUGHING. No, since last spring.

Mr. GRORUD. That is quite a large development, is it not?

Mr. LAUGHING. It looks that way. I never was right near it. They said they wouldn't allow any inspectors, so I never went near.

Mr. GRORUD. With reference to the St. Regis River, that connects up with the St. Lawrence, does it not?

Mr. LAUGHING. It empties into the St. Lawrence at St. Regis.

Mr. GRORUD. Do the Indians or any one else use the St. Regis River for navigation?

Mr. LAUGHING. Yes.

Mr. GRORUD. To what extent, Chief?

Mr. LAUGHING. Well, all I have seen is row boats and some little yachts.

Mr. GRORUD. Carrying freight back and forth—up and down the river?

Mr. LAUGHING. Yes.

Mr. GRORUD. To points above where the construction is now taking place?

Mr. LAUGHING. No; not above.

Mr. GRORUD. Up to it?

Mr. LAUGHING. Up to it. Years ago there used to be a grist mill there.

Mr. GRORUD. Who owned the grist mill?

Mr. LAUGHING. G. S. Mills.

Mr. GRORUD. Before Mr. Mills who was it that located on the property within the reservation? Was it Mr. Hogan?

Mr. LAUGHING. It seems to me Mr. Hogan leased it at one time.

Mr. GRORUD. From the Indians?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Did he ever acquire title from the Indians? Did the Indians ever sell the land to Hogan?

Mr. LAUGHING. That I don't know.

Mr. GRORUD. So far as your record is concerned.

Mr. LAUGHING. So far as my record goes—well, I will tell you, I think the treaty really tells about these mills.

Senator WHEELER. We ought to have the treaty. We can't tell anything about that.

Mr. GRORUD. What treaty do you refer to—the treaty of 1796?

Mr. LAUGHING. The treaty of 1796.

Senator WHEELER. What does that say regarding these mills, if anything, that you recall?

Mr. LAUGHING. Well, it tells about it. There is a mill at Hogansburg, too. Of course, that is where the mill was burned. And the dam went out. Now, they have to build a new one, but they have never consulted with the chiefs.

The CHAIRMAN. Where is the proposed dam to be put in; at Hogansburg, or near there?

Mr. LAUGHING. Yes; just below the bridge.

The CHAIRMAN. How much of a stream is this St. Regis River there at Hogansburg?

Mr. LAUGHING. Oh, it is quite a stream, it is quite a body of water.

The CHAIRMAN. How deep is it, do you know anything about that?

Mr. LAUGHING. Of course, it isn't deep right in the village here, when they shut the water off. It might be 10 or 12 feet right in the village here.

Senator WHEELER. Your contention is that the land where this power site is being built belongs to the Indians? That is on the reservation?

Mr. LAUGHING. Well, that is my opinion.

Mr. GRORUD. When the saw mill was in operation at this power site, were logs floated down the river for the manufacture of lumber at this mill?

Mr. LAUGHING. Yes.

Mr. GRORUD. And did such traffic continue for several years?

Mr. LAUGHING. Yes, it did—for several years.

Mr. GRORUD. Were boats used for transportation purposes on the St. Regis River where the power dam is now being constructed?

Mr. LAUGHING. They had boats below the rapids there.

Mr. GRORUD. How about boats above the rapids?

Mr. LAUGHING. Nothing but rowboats.

Mr. GRORUD. Were there any freight transportation there?

Mr. LAUGHING. No; not above. There used to be a freight boat going below these rapids.

Mr. GRORUD. Up to the rapids?

Mr. LAUGHING. Yes.

Mr. GRORUD. And the dam is built right at the rapids?

Mr. LAUGHING. Well, yes, a little ways above.

The CHAIRMAN. Is this dam that they are building now on the exact site that the old mill dam was located on?

Mr. LAUGHING. Yes, on the same site.

The CHAIRMAN. In that treaty, was not that mill property, that dam site, excepted?

Mr. LAUGHING. Years ago; lately there was never anything said.

Senator WHEELER. Well, of course; if they excepted this particular site, this dam site, from your land, then you wouldn't have any claim to it?

Mr. LAUGHING. We wouldn't? You say we wouldn't?

Senator WHEELER. I shouldn't think you would.

The CHAIRMAN. Not if an exception was made in the treaty.

Mr. LAUGHING. It doesn't mention about the dam—only the mills at Fort Covington. There used to be a mill there.

The CHAIRMAN. Did you say there used to be a mill at Hogansburg?

Mr. LAUGHING. A grist mill and a sawmill—and another sawmill on this side of the river.

The CHAIRMAN. Was the grist mill or sawmill at Hogansburg mentioned in the treaty at all?

Mr. LAUGHING. No.

Senator WHEELER. How long would it take you to get the treaty?

Mr. LAUGHING. Two or three minutes.

Senator WHEELER. Suppose you go and get the treaty.

The CHAIRMAN. Yes, we ought to have the treaty.

Mr. LAUGHING. All right.

STATEMENT OF LESLIE M. SAUNDERS, STATE ATTORNEY FOR ST. REGIS AMERICAN INDIANS, ST. REGIS FALLS, N. Y.

The CHAIRMAN. Please give your full name for the record.

Mr. SAUNDERS. Leslie M. Saunders.

The CHAIRMAN. And your official title.

Mr. SAUNDERS. Attorney for the St. Regis American Indians under the statute of New York.

The CHAIRMAN. And you are in the employ of the State of New York?

Mr. SAUNDERS. Yes, sir.

The CHAIRMAN. Do the Indians pay you anything for your service?

Mr. SAUNDERS. They do not.

The CHAIRMAN. How much are you paid by the State?

Mr. SAUNDERS. \$150 a year is all. There are no expenses, as I understand it. I was recently appointed. I have held the office less than a year.

Senator WHEELER. Do you know anything at all about this treaty?

Mr. SAUNDERS. No, sir; I have never read the treaty, but Chief Laughing has it and he will bring it here.

Senator WHEELER. Have you ever looked into the treaty?

Mr. SAUNDERS. I have not.

Senator WHEELER. And you don't know anything about it?

Mr. SAUNDERS. No more than the chief told me in conversations.

Senator WHEELER. I thought you knew something about it.

Mr. SAUNDERS. I am just newly appointed. My predecessor died.

The CHAIRMAN. Who was your predecessor?

Mr. SAUNDERS. Mr. Regan.

The CHAIRMAN. Had he been attorney here for some time?

Mr. SAUNDERS. Three years.

Senator WHEELER. What do you know about the construction of these power sites down there?

Mr. SAUNDERS. They are to be seen there at the covered bridge.

Senator WHEELER. Are they on the Indian reservation?

Mr. SAUNDERS. They are on the original Indian reservation, as I understand it. The Indians claim that a large part, perhaps all, of Hogsburg was put on the original reservation. It undoubtedly was. And they have about half of the land. It was originally allotted to them under this treaty which Chief Laughing has gone home to get.

The CHAIRMAN. Do you know how this part of the village was procured from the Indians?

Mr. SAUNDERS. No, I have never looked into it.

Senator WHEELER. Who is building this power plant?

Mr. SAUNDERS. Malone Light & Power Co., a subsidiary of the Northeastern Power Co.

Mr. GRORUD. You don't know anything about the acquisition of these power sites by the power company?

Mr. SAUNDERS. I don't, no. I suppose they got whatever title their predecessor had—some private owner that had the dam there before. I assume that they did.

Mr. GRORUD. And that was acquired in recent years?

Mr. SAUNDERS. Yes, I think it was acquired within the last year or two—very recently.

Senator WHEELER. That is, by the power and light company?

Mr. SAUNDERS. Yes, sir.

Mr. GRORUD. Will you state to the committee just what your duties are with reference to the St. Regis Indians?

Mr. SAUNDERS. Well, my duties are defined in the statute. My principal duty is to pay their annuity from the State of New York in the month of August of each year.

The CHAIRMAN. That is under the terms of the treaty, is it?

Mr. SAUNDERS. Yes, sir, and then I am to look out for their interests where any one squats on their land or gets on their land, and remove them; and advise them in respect to people who would acquire rights or acquire possession of their lands.

Mr. GRORUD. How about the gravel pit out here on the road? Do you know anything about that?

Mr. SAUNDERS. No; Except that I have heard the chiefs talk about it; that is all.

Mr. GRORUD. Are they getting any royalty from the gravel?

Mr. SAUNDERS. Well, I wouldn't say for sure whether they are or not.

Mr. GRORUD. How about the leasing of some of their lands on this reservation for grazing purposes? Have you looked into that?

Mr. SAUNDERS. No; I haven't looked into the matter. I think there are some whites, though, in occupation of Indian lands. I don't know if they are paying anything. I don't think they are.

Senator WHEELER. How do they stay on there, then, if they don't pay anything for the land? Isn't it part of your duties to put them off when they don't pay anything for the use of the land?

Mr. SAUNDERS. These things have not been brought to my attention officially.

Senator WHEELER. What do they have to do to bring them to your attention officially?

Mr. SAUNDERS. Make some complaint to me.

Mr. GRORUD. And you are paid \$150 a year by the State of New York?

Mr. SAUNDERS. Yes.

Mr. GRORUD. What are you doing for the \$150?

Mr. SAUNDERS. Distributing \$2,148, something like that, to the Indians, which amounts to \$1.35 each.

Mr. GRORUD. \$1.35 per capita.

Mr. SAUNDERS. It amounts to \$1.35 per capita. It figures out that way.

Mr. GRORUD. How was the \$2,100 annuity created?

Mr. SAUNDERS. I assume it was for occupation of Indian lands by the whites, lands that had been taken from the Indians by the State of New York, and this annuity is the interest on the principal sum, which is fixed each year at \$2,100.

Mr. GRORUD. How is the \$1.35 distributed?

Mr. SAUNDERS. I distribute it. I determine the amount by dividing the amount of money by the number of Indians.

Mr. GRORUD. And you mail it to them?

Mr. SAUNDERS. No; I deliver it to them individually, ordinarily.

The CHAIRMAN. You give each Indian a check for that amount?

Mr. SAUNDERS. Yes. It takes two days to distribute it.

Mr. GRORUD. Do you cooperate with the Government agent at Salamanca?

Mr. SAUNDERS. I never came in contact with him, never had a letter from him, or never heard from him.

Mr. GRORUD. Do you cooperate with the State of New York through the board of charities?

Mr. SAUNDERS. Yes. It is the department of welfare now—formerly the board of charities.

Mr. GRORUD. What do you know about schools for the Indian children?

Mr. SAUNDERS. Well, I have had conversations with the principal of the school here, Mr. Moulton. I was advised that if Mr. Moulton were asked to come before this committee he would be glad to come. I understood this morning that he hadn't been asked to come.

The CHAIRMAN. Is that a State Indian school or one of the local public schols?

Mr. SAUNDERS. Public school.

Mr. GRORUD. You are referring to the city schools of Hogansburg?

Mr. SAUNDERS. Why, yes.

Mr. HAGUE. The State pays the entire expense of the Indian school. There is a public school supported by the whites.

Mr. GRORUD. How do you provide for the higher education of the Indians?

Mr. SAUNDERS. I understand they are sent away from here.

Mr. GRORUD. Isn't it a fact that the Indians themselves pay the expenses for the Indians sent to school off the reservation?

Mr. SAUNDERS. I understand it is. If they have the money, they pay themselves.

Mr. GRORUD. And if they haven't the money—

Mr. SAUNDERS. They can't go.

The CHAIRMAN. Do you know about the attendance of Indian children of school age at the Indian schools?

Mr. SAUNDERS. No; I don't know. You can get that information from the principal.

Mr. GRORUD. What assistance do you get from the board of social welfare of the State of New York? Do they cooperate with you all right?

Mr. SAUNDERS. Very well, indeed; very good cooperation.

Senator WHEELER. With reference to what do they cooperate? You said you got good cooperation. What is the nature of the cooperation?

Mr. SAUNDERS. Mr. Wallace, the secretary, is here now. He came here before the board of supervisors and remained with them all day and discussed matters with them that were vital to the Indians. He spent the whole day with them until he had to take the train. Then he discussed matters with me at Fort Covington, where I have a branch office.

Senator WHEELER. Where is your main office?

Mr. SAUNDERS. My main office is at St. Regis Falls, 28 miles from here.

Mr. GRORUD. Have Mr. Wallace or any one else from the board of social welfare been here before?

Mr. SAUNDERS. Not since I came into office.

Mr. GRORUD. And it is the first time that they ever visited St. Regis Reservation?

Mr. SAUNDERS. Since I came into office.

Mr. GRORUD. And that was a year and a half ago?

Mr. SAUNDERS. Yes.

Mr. GRORUD. When was Mr. Wallace's first visit here?

Mr. SAUNDERS. The 4th of December; the 3d was the day he was before the board of supervisors and on the 4th he was at my office.

Mr. GRORUD. Subsequent to the hearings at Salamanca and Syracuse.

Mr. SAUNDERS. I think it was before the Salamanca and Syracuse hearings.

Mr. WALLACE. It was subsequent. The man that looks after the Indian relief ordinarily looks after it for us. It is not necessary to take the matter up with Mr. Saunders.

Senator WHEELER. I think that is all.

The CHAIRMAN. Have you any further statement that you care to make in relation to the Indian situation here?

Mr. SAUNDERS. As to the Indians themselves, I find they, as a whole, are square. I have been told by those who deal with them that they are square, and I have found that to be true. At least 90 per cent of them are good, honest men.

The CHAIRMAN. Have you had much to do with the Indians previous to your appointment?

Mr. SAUNDERS. No; except that I have always lived near them. Their homes are good homes.

The CHAIRMAN. Your home city, St. Regis Falls, is up the river some distance?

Mr. SAUNDERS. Yes; 28 miles.

The CHAIRMAN. Not on the reservation, at all?

Mr. SAUNDERS. Not on the reservation.

The CHAIRMAN. Is there any other statement you care to make?

Mr. SAUNDERS. No; I don't think there is anything further.

Senator WHEELER. Do you know whether anybody for the State of New York has looked into the treaty with reference to these power sites?

Mr. SAUNDERS. I don't know. I have heard of the treaty, but I have never read it.

Senator WHEELER. Is there any assistant attorney general here?

Mr. MANLEY. I am familiar with this entire situation with reference to the St. Regis Reservation.

Senator WHEELER. Very well, let us hear from Mr. Manley.

STATEMENT OF HENRY S. MANLEY, ASSISTANT ATTORNEY GENERAL, STATE OF NEW YORK, ALBANY, N. Y.

The CHAIRMAN. State your full name.

Mr. MANLEY. Henry S. Manley.

The CHAIRMAN. And your official position.

Mr. MANLEY. Assistant attorney general, State of New York.

Senator WHEELER. Will you just go ahead and tell us what the situation is as you found it?

Mr. MANLEY. I understand the situation to be this: That this \$2,100 annuity of which you have heard is the price which the State stipulated to pay under certain treaties which it has entered into with the St. Regis Nation at various times from 1816 on down to about 1829. Those treaties are perhaps 6 and perhaps 10 in number. The St. Regis Reservation was set up under this treaty of 1796 between some persons calling themselves the Seven Nations of Canada, whoever they may be, but apparently principally the St. Regis Indians, and the State of New York. In that treaty, of which you apparently have one of the duplicate originals before you, there was reserved a tract not specified as to the exact land involved, but 6 miles square, and also a square mile adjoining the mill site on Grass River; and a square mile adjoining the reservation on the Salmon River, and also some meadows along the St. Regis River. That land when it was surveyed out, apparently by some agreement between the Indians and the individuals involved, was not in the form of 6 miles square but in a somewhat irregular shape, roughly 3 miles from south to north and 12 miles from east to west, and bounded on the north by the St. Lawrence River. These treaties that I speak of were of various dates from 1816 to about 1829.

Senator WHEELER. I suppose we have copies of them.

Mr. MANLEY. They are all to be found in a book which I sent to Mr. Grover, which was a report of an assembly committee of the State of New York. Those treaties, each one of them, related to a different part of this original reservation. One treaty, for instance, related to the Grass River square mile, and the Indians surrendered that up for a definite amount to be paid in hand and a certain annuity to be paid year after year.

The CHAIRMAN. Has that agreement been carried out?

Mr. MANLEY. Very faithfully, I believe.

Another treaty related to certain portions of land roughly in the form of a triangle out of the center of the southern part of the original reservation. I think there were two or three treaties by which that triangular portion was released from the Indians; and, incidentally, the present site of the village of Hogansburg was covered by one of those treaties.

Now, this recent power development, which can be seen from the covered bridge up here, is built, I understand, on the site of an older development, and they both are on land which was released from the Indians under one of those treaties, whatever may be thought of their status. The village of Hogansburg, of course, is in that same situation. It is erected on land conveyed under one of those treaties.

Senator WHEELER. Why do you say "whatever may be thought of their status"?

Mr. MANLEY. Why, the status of these treaties has been the subject of a lawsuit involving directly the Massena mile square, in a suit entitled "Deere against the St. Lawrence River Power Co." James Deere was a member of the St. Regis Tribe and prepared to sue on behalf of all the St. Regis Indians. He sued the St. Lawrence River Power Co. and many other defendants to recover the mile square at Massena upon the theory that the treaty under which that was released by the Indians, and all similar treaties, were illegal,

not having been done under the authority of the United States nor confirmed by the United States. That suit was started in the United States district court for the northern district of New York in 1925. It was dismissed by the district court and an appeal was taken to the United States Circuit Court of Appeals.

Senator WHEELER. Upon what grounds?

Mr. MANLEY. That the Indians had no capacity to sue, or that there was no question in the case giving jurisdiction to the Federal courts. The Circuit Court of Appeals confirmed that decision last May. The opinions are available in the Federal Reporter.

Unless you have some questions to ask, I think that covers it.

Senator WHEELER. This is the treaty of 1796 [holding the original of said document in hand]?

Mr. GRORUD. Yes, sir.

Senator WHEELER. And the receipts for money paid to the Indians are indorsed down here [indicating]?

Mr. GRORUD. Yes, sir.

Mr. MANLEY. That is a very interesting document. That ought to be photostated. At least, a photostat ought to be preserved carefully some place.

Senator WHEELER. Now, they got their title originally, did they, from the State of New York?

Mr. MANLEY. No; the theory was that the title to that land was in the Seven Nations of Canada. No historian, to my knowledge, has ever been able to determine who were the Seven Nations of Canada, but there was a set of Indians who descended upon New York State about the year 1796 and were successful in persuading the authorities that they had some rights, which were protected by a treaty.

Senator WHEELER. Upon what theory did the courts hold that the Indians didn't have the right to go into court and start suit?

Mr. MANLEY. There was no question of citizenship involved and there was no question of law arising under a treaty or the laws of the United States. The court couldn't tell from the original complaint whether there was any treaty necessarily involved or not.

Senator WHEELER. The court didn't hold that the Indians couldn't come in collectively as a tribe, or that some one couldn't come in on behalf of all of them, setting forth that there were too many of them to bring suit?

Mr. MANLEY. No; the court didn't have occasion to pass on that issue, or to raise it.

Senator WHEELER. The Federal courts have held that labor unions can bring suit.

Mr. MANLEY. I suppose that an organization which has a collective capacity should sue in a collective capacity.

Mr. GRORUD. How was the title extinguished with reference to the lands belonging to the St. Regis Indians, particularly with reference to the power site at St. Regis?

Mr. MANLEY. I can't say which particular one of these treaties covered that. By the "site at St. Regis" what do you refer to? Do you refer to this power site here?

Mr. GRORUD. Yes; right here.

Mr. MANLEY. Yes; this should be more particularly described as the site at Hogsburg.

Mr. GRORUD. The site at Hogansburg.

Mr. MANLEY. I can't say which particular treaty related to that, but it is one of that particular series of treaties.

Mr. GRORUD. Has the United States Government extinguished this Indian title?

Mr. MANLEY. The United States Government didn't participate in any way. I might also say that the United States Government didn't make any sort of treaty with the St. Regis Indians. The United States Geological Survey in mapping the St. Regis Reservation for Geological Survey purposes gives full effect to these treaties.

Mr. GRORUD. How about the mile square at Massena Falls, where the aluminum plant is situated? How was that Indian title extinguished, if you know?

Mr. MANLEY. By the same series of treaties.

Senator WHEELER. The question comes up, under the Constitution of the United States, as to whether or not the Indian title can be extinguished in any wise except by the United States.

Mr. MANLEY. We have perhaps a million acres of land in that same situation. I understand some other States have the same question.

Senator WHEELER. This reservation was originally set aside to the Indians by the State of New York.

Mr. MANLEY. It was originally set up under that treaty which you have there [indicating]. That treaty apparently proceeds upon the theory that the Seven Nations of Canada, of whom the St. Regis Indians were a part, owned a great deal of land in northern New York, and that they released their rights except as to this particular reservation in consideration for having this reservation definitely set aside for them and for a certain money consideration which I think also appears by treaty.

Mr. GRORUD. Are the Seven Nations the same as the Six Nations of New York?

Mr. MANLEY. No; they are a very different group. As I say, no historian has ever been successful in determining just who the Seven Nations were. It is clear that they were separate from the Six Nations.

The CHAIRMAN. Was the Six Nations part of the State of New York?

Mr. MANLEY. By adoption in 1848. Before that they were not. They are originally an offshoot from the runaway Mohawks.

Mr. GRORUD. What do you know about the boundary line which runs through the St. Regis Reservation? Was that finally determined as the correct boundary line between Canada and the United States?

Mr. MANLEY. I believe it was shortly after 1800. There was considerable difficulty about the exact place of it.

Mr. GRORUD. There was some claim on the part of the Indians that that was not the correct boundary line, was there not?

Mr. MANLEY. I don't know as to that.

Mr. GRORUD. Well, in fact they claim that this is one reservation embracing areas of lands on both sides and that there is no recognized international boundary line on the reservation.

Mr. MANLEY. At various times certain groups of Indians have put forth in this country and in Canada that the Indian reservations are

no part of the State in which they are found but are a separate sovereignty.

Senator WHEELER. Is the St. Regis River down here where they are establishing the power sites; is that looked upon by the people here as a navigable stream?

Mr. MANLEY. I believe there is some evidence available that the stream is navigable, although I wouldn't wish to determine of my own knowledge that question.

Senator WHEELER. In a navigable stream what do you do with reference to your power sites? What contention does the State of New York make—with power companies on a navigable stream?

Mr. MANLEY. As you are aware, that is a subject on which the authorities differ. It was the contention that the State has control over power sites and power development upon streams navigable or otherwise within the boundaries of the State. The United States has never seen fit to submit to the test of a lawsuit, and it is also the contention that the United States has control of that matter.

Mr. GRORUD. Are you familiar with the power act of June 10, 1920?

Mr. MANLEY. Nothing has been done under it that would give us an excuse for a lawsuit, and it never has been tested in court.

Mr. GRORUD. It gives the Federal Power Commission authority over power sites on navigable streams.

Senator WHEELER. It gives them authority if they originally had the authority. Perhaps it would be good idea to try that out on one of these up here and determine it.

Mr. GRORUD. Do you know anything about these rapids on the St. Lawrence River a few miles east of here?

Mr. MANLEY. I know very little about them directly. Of course, every now and then we hear about development on the St. Lawrence.

Mr. GRORUD. Do you know whether or not they come within the boundaries of the Indian reservation?

Mr. MANLEY. No; I don't know.

Mr. GRORUD. Are they situated within the mile square, heretofore referred to?

Mr. MANLEY. Mile square—that doesn't affect the river at all.

Mr. GRORUD. But some of the Indians own some of the islands in the St. Lawrence River; isn't that a fact?

Mr. MANLEY. I believe that claim has been put forward.

The CHAIRMAN. Under treaty or purchase?

Senator WHEELER. It would be under a treaty.

Mr. MANLEY. Well, the question is all bound up with the question of the intersection between those islands, isn't it?

Mr. GRORUD. That is true.

Mr. MANLEY. And there has been some litigation in Canada on that?

Mr. GRORUD. Most of those Indians live on the islands?

Mr. MANLEY. I believe so.

Mr. GRORUD. Some of those islands are owned by the State of New York also?

Mr. MANLEY. Yes.

Mr. GRORUD. Some are owned by the United States?

Mr. MANLEY. I believe that is so.

Mr. GRORUD. Some are owned by Canada?

Mr. MANLEY. I believe that is so.

Senator WHEELER. Pinchot took the position that the waters that were navigable belong to the Government didn't he?

Mr. MANLEY. I think that is so. There was a matter of difference between him and Governor Smith.

The CHAIRMAN. Have you any further statement to make?

Mr. MANLEY. No; thank you, Senator.

The CHAIRMAN. Then we will recess one hour for luncheon.

Whereupon, at 12.15 o'clock p. m., the subcommittee recessed for luncheon. At 1.15 o'clock p. m. the proceedings were resumed, as follows:

AFTER RECESS

STATEMENT OF CHIEF MITCHELL LAUGHING—Resumed

Mr. GRORUD. Do you know anything about the 43 acres of land bordering the St. Regis River that was sold or alienated from the Indians?

Mr. LAUGHING. Yes.

Mr. GRORUD. Will you state to the committee how that was alienated from the Indians?

Mr. LAUGHING. All right. That 43 acres lies on this end of the bridge; this side of the river. I can not find any record where it was a gift or leased or sold. There is no record of it at Albany or Washington.

The CHAIRMAN. That is the land on which this little village is now located, is it?

Mr. LAUGHING. Yes.

Mr. GRORUD. Who owns the land now?

Mr. LAUGHING. Different families are living on it.

Mr. GRORUD. Are they operating a gravel pit on this reservation?

Mr. LAUGHING. Yes.

Mr. GRORUD. Where is that situated?

Mr. LAUGHING. Fort Covington.

Mr. GRORUD. Who is mining this gravel pit?

Mr. LAUGHING. A man by the name of Levi Jacobs.

Mr. GRORUD. Is he actually working the gravel pit?

Mr. LAUGHING. Well, he is selling it to the State.

Mr. GRORUD. For use in the construction of State highways?

Mr. LAUGHING. Yes.

Mr. GRORUD. Is the tribe getting anything from it in the shape of royalties?

Mr. LAUGHING. No, sir; not a cent—only the man that is living on it, this man Jacobs. He sells it by the yard.

Mr. GRORUD. What is the rule here among the Indians with reference to permitting any one to operate gravel pits?

Mr. LAUGHING. They have to get the consent of the chief.

Mr. GRORUD. Did this man get the consent of the chiefs?

Mr. LAUGHING. No; not yet.

Mr. GRORUD. He has been mining there for some time?

Mr. LAUGHING. Yes.

Mr. GRORUD. For how many years?

Mr. LAUGHING. I think it is between three and four years.

Mr. GRORUD. What is he getting per yard?

Mr. LAUGHING. I think it is 50 cents per yard.

Mr. GRORUD. He has sold a considerable amount of gravel?

Mr. LAUGHING. I am not sure. Mr. Murphy might know more about what he gets than I do.

Mr. GRORUD. A considerable amount of gravel has been taken out and sold?

Mr. LAUGHING. He has sold a lot of gravel.

Mr. GRORUD. Have you made a demand upon this man Jacobs for your royalties?

Mr. LAUGHING. No; not yet. We are just letting him go on.

Mr. GRORUD. What sort of an Indian Government have you on this reservation? How do you conduct your affairs on the reservation?

Mr. LAUGHING. Through chiefs.

The CHAIRMAN. How many are there in the chiefs' council?

Mr. LAUGHING. Three chiefs.

The CHAIRMAN. How is the chiefs' council chosen?

Mr. LAUGHING. Well, we look the matter over and decide what is to be done.

Senator WHEELER. Do you elect them, or what do you do?

Mr. LAUGHING. They are voted in.

Mr. GRORUD. You have no tribal relations or business connection, have you, with the Indians living across the border line in Canada?

Mr. LAUGHING. None whatever.

Mr. GRORUD. Have you had any controversy with them with reference to property rights?

Mr. LAUGHING. Yes; the difficulty is we can not buy any land over there at all. It is strictly prohibited through the Government at Ottawa; and here a year back we found a State law—you see what chance we got over there. That is where the dispute comes in.

Senator WHEELER. You can not go on the reservation, on the Canadian side, and buy any land without the consent of the Indians over there?

Mr. LAUGHING. Yes; that is right, and they won't give us their consent.

Senator WHEELER. And they can't come over here?

Mr. LAUGHING. They can't come over here. It is strictly against the law. A lot of them are living here.

Senator WHEELER. A lot of them are living here?

Mr. LAUGHING. But we moved one here recently, last fall, about a year ago.

Mr. GRORUD. How did you move him?

Mr. LAUGHING. Through course of law.

Mr. GRORUD. The State law?

Mr. LAUGHING. State law.

Mr. GRORUD. Have you any grazing leases on this reservation?

Mr. LAUGHING. Well, there are a few, for pasturing, once in a while—meadows.

Mr. GRORUD. Have you collected any rents for the leases?

Mr. LAUGHING. Why, we generally do, but they get so that they won't pay a thing.

Mr. GRORUD. How do you enforce payment?

Mr. LAUGHING. We have to sue the parties.

Mr. GRORUD. Have you brought any suits?

Mr. LAUGHING. Not yet.

Mr. GRORUD. How many years have these leases continued in force or been in existence?

Mr. LAUGHING. They are leased year by year—leases renewed each year.

Mr. GRORUD. How much in royalties or rentals are in arrears now, if you know?

Mr. LAUGHING. We chiefs get, I think, 25 cents off of each acre?

Mr. GRORUD. The chiefs get 25 cents an acre?

Mr. LAUGHING. Yes.

Mr. GRORUD. That is paid to the chiefs?

Mr. LAUGHING. That is paid to the chiefs.

Mr. GRORUD. And retained by the chiefs?

Mr. LAUGHING. Retained by the chiefs.

Mr. GRORUD. How many acres are leased?

Mr. LAUGHING. I don't know just exactly. Our people that are back on the chiefs' books—we call them chiefs' books—they won't let us know when they have leased anything to a white man; and if he still occupies it, why, we let him go; we don't disturb him.

Mr. GRORUD. How much have you been collecting for yourself?

Mr. LAUGHING. Collecting for ourselves?

Mr. GRORUD. Yes.

Mr. LAUGHING. The last two years we haven't collected a cent.

Mr. GRORUD. You haven't received any salary?

Mr. LAUGHING. No.

Mr. GRORUD. It hasn't been any appreciable amount at any time?

Mr. LAUGHING. No.

Mr. GRORUD. Are you receiving any annuities by reason of any annuities paid to the Six Nations of New York?

Mr. LAUGHING. Never.

Mr. GRORUD. You are a part of the Six Nations, are you not?

Mr. LAUGHING. Well, I don't know whether we are or not. As a rule, according to the treaty, we are from the Seven Nations.

Mr. GRORUD. And you claim that you are part of the Six Nations?

Senator WHEELER. You are part of the Six Nations by adoption?

Mr. LAUGHING. Yes.

Mr. GRORUD. And you claim that you are entitled to your share of the annuities?

Mr. LAUGHING. Yes, sure; but we never get it.

Mr. GRORUD. You never get it?

Mr. LAUGHING. No.

Senator WHEELER. What kind of schools do you have here for your children?

Mr. LAUGHING. Oh, this school down here is up to the eighth grade.

Senator WHEELER. Do all the Indian children go to school?

Mr. LAUGHING. Not all of them—yes; they go to school, but there are other schools on the reservation. Of course, this big school, there is where the majority of them go to school.

Senator WHEELER. Is there any compulsory law to compel the children of school age to go to school?

Mr. LAUGHING. Yes.

Senator WHEELER. They make them go to school?

Mr. LAUGHING. They make them go to school.

The CHAIRMAN. How many teachers have you down here in the village?

Mr. LAUGHING. I think there must be four or five.

Senator WHEELER. Is there a lot of liquor brought on to this reservation from Canada?

Mr. LAUGHING. I don't know.

Senator WHEELER. Well, is there much liquor on the reservation here?

Mr. LAUGHING. Well, sir, that I can't tell you—how much there is, because I don't meddle with it.

Senator WHEELER. You don't know much about that?

Mr. LAUGHING. No.

Senator WHEELER. Is there more liquor on this reservation now than there was before prohibition?

Mr. LAUGHING. I can't say whether there is more or less. There may be a lot of it, but I don't know.

Senator WHEELER. You are not a drinking man yourself?

Mr. LAUGHING. No.

Mr. GRORUD. Have you had any complaints from the Indians, that is, complaints to you, about not getting their annuity from the State—their per capita payment?

Mr. LAUGHING. From the State?

Mr. GRORUD. Yes.

Mr. LAUGHING. Why, a few.

Mr. GRORUD. A few or a good many?

Mr. LAUGHING. Well, I will tell you, if this is what you mean—there are a few that we took off the list.

Mr. GRORUD. I mean, some of them are still on the list and they have not been paid—from previous administrations, not under Mr. Saunders, but from some other agent.

Mr. LAUGHING. No.

Mr. GRORUD. You have had no other complaints?

Mr. LAUGHING. No.

The CHAIRMAN. Is there any other statement you want to make?

Mr. LAUGHING. Yes; I would like to say a word or two.

The CHAIRMAN. Go ahead.

Mr. LAUGHING. According to this treaty, there was a first payment made, and the Indians here claim that we never got the first payment. Now, how much is that? I haven't looked at this old record for a long time—there is over 1,000 pounds there.

The CHAIRMAN. What Indians claim they never got that first payment?

Mr. LAUGHING. St. Regis Indians.

The CHAIRMAN. Do you mean that there is a sort of tradition that they never got the first payment called for in this treaty?

Mr. LAUGHING. They claim it was never paid. That is what I want to know.

Senator WHEELER. The records in New York will probably show whether it has been paid or not.

Mr. MANLEY. I am not aware of any payment. I have never examined it for any payment.

Mr. LAUGHING (holding in hand said treaty of 1796). It is a thousand pounds and something.

Mr. MANLEY. I never heard the suggestion that it never was paid.

Mr. LAUGHING. They claim it never was paid.

The CHAIRMAN. That can easily be looked up.

Mr. GRORUD. I don't think so.

The CHAIRMAN. If it was paid, there must be a record of the payment.

Mr. LAUGHING. For the first payment they claim they lost the voucher, and the State didn't pay it.

Mr. MANLEY. Isn't there a voucher indorsed on there?

Mr. LAUGHING. Oh, there is a lot of them.

Mr. MANLEY. I mean for that particular payment?

Mr. LAUGHING. Did you see it? I didn't. The amount is right in here [indicating].

The CHAIRMAN. There are a lot of indorsements on it.

Senator WHEELER. Why don't you write down to the attorney general and ask if they can find it. They will have a record of it down in New York.

Mr. LAUGHING. Yes; but they have no record down in New York.

Senator WHEELER. When you have complaints of that sort why don't you write down to the State authorities and ask about them?

Mr. LAUGHING. Well, I will.

Senator WHEELER. Do you have any other statement you want to make?

Mr. LAUGHING. Yes; something about the roads.

Senator WHEELER. What about the roads?

Mr. LAUGHING. There are a lot of roads in the reservation—it is unfit. At certain times of the year you can't get through.

The CHAIRMAN. This treaty mentions something to be paid—1,253 pounds and some shillings and pence—it is blotted here.

Mr. LAUGHING. Of course, yearly—we get that every year.

Senator WHEELER. Now, you claim also that the roads through the reservation here haven't been kept up, and that they are almost impassable; is that it?

Mr. LAUGHING. Yes; outside of what they call the State highway.

Senator WHEELER. And you claim that the State ought to keep these highways up?

Mr. LAUGHING. Yes, sir.

Mr. MANLEY. Why should it?

Senator WHEELER. I was going to ask, why should the State keep them up?

Mr. LAUGHING. We learn that they appropriate every year to make some roads, but they don't come with the roads. They may lay it all on the good roads.

Senator WHEELER. Do you claim that your treaty provides for these roads?

Mr. LAUGHING. Well, the treaty doesn't mention anything about roads.

Senator WHEELER. You don't pay any taxes, do you, on the reservation?

Mr. LAUGHING. No.

Senator WHEELER. Of course, the only claim that you would have on the State of New York for keeping up the roads would be under your treaty provisions.

Mr. LAUGHING. Yes.

Senator WHEELER. And if your treaty doesn't provide for that, then, of course, you couldn't force them to do it.

Mr. LAUGHING. Well, no.

Senator WHEELER. Do you vote here on this reservation?

Mr. LAUGHING. No.

Senator WHEELER. Why not?

Mr. LAUGHING. We vote only when we elect a chief.

Senator WHEELER. Why don't you vote in the State elections?

Mr. LAUGHING. Well, we don't care about voting.

Senator WHEELER. Why not?

Mr. LAUGHING. Well, if we did vote the taxes would come on us.

Senator WHEELER. No; you are mistaken about that; it doesn't make a particle of difference whether you vote or don't vote. Congress has granted you the right to vote, and nobody can take away any of your privileges by reason of the fact that you voted.

Mr. LAUGHING. There are only a few, I think, that do.

Senator WHEELER. There seems to be a misapprehension on the part of the Indians here in the State of New York that if they vote they are going to lose some of their rights. You can't lose any of the rights that you already have by reason of your voting. There isn't any question about that. In my judgment, if you voted and took part in the elections you would probably receive better treatment. As a matter of fact, it is your duty to vote. You ought to take part in the Government, just the same as anybody else. You go to the State and you want certain things from the State. You want the State to build roads for you but you don't want to vote. You don't take any interest in the Government. You are now citizens of the United States, and, as citizens of the United States it is your duty to vote, just as it is my duty to vote, and you ought to do it.

Mr. LAUGHING. We don't vote.

The CHAIRMAN. Is there any further statement you care to make?

Mr. LAUGHING. No; that is about all.

STATEMENT OF CHIEF JULIUS HERNE, HOGANSBURG, N. Y.

(The witness was sworn by the chairman.)

The CHAIRMAN. Your name is Julius Herne?

Mr. HERNE. Yes, sir.

The CHAIRMAN. You are one of the chiefs here?

Mr. HERNE. Yes, sir.

The CHAIRMAN. And are one of the chiefs' council?

Mr. HERNE. Yes, sir.

The CHAIRMAN. How long have you held the position on the council?

Mr. HERNE. It will be four years next June.

The CHAIRMAN. How often do you have an election for the council?

Mr. HERNE. Once a year.

The CHAIRMAN. Do you elect a new council each year?

Mr. HERNE. No; we elect one councillor and he will stay three years, you see? We have an election of one every year and he will stay for three years.

The CHAIRMAN. Yes; that is a good system. You are serving your second term, then?

Mr. HERNE. Yes, sir.

Senator WHEELER. Do you get any pay for acting as chief?

Mr. HERNE. Why, no; only what we can collect outside of the reservation.

Senator WHEELER. What do you collect outside of the reservation?

Mr. HERNE. Oh, on the leased lands—pasture. They don't lease for any more than a season, you know, at a time.

Senator WHEELER. The lands up here on the reservation are held by the tribe as a whole, are they? No individual Indian has title to his land?

Mr. HERNE. No, no.

Senator WHEELER. It is all owned by the tribe?

Mr. HERNE. Yes.

Senator WHEELER. It has never been allotted?

Mr. HERNE. Never.

Senator WHEELER. But the individual Indians have a place on the reservation they can call their homes?

Mr. HERNE. Yes.

Senator WHEELER. They have a house?

Mr. HERNE. Yes.

Senator WHEELER. And a piece of land?

Mr. HERNE. We could if we had the land, but we ain't got the land now.

Senator WHEELER. You haven't got enough land to go around?

Mr. HERNE. No.

Senator WHEELER. Are the Indians increasing in number?

Mr. HERNE. Oh, I guess they are.

Mr. CHOPAK. I respectfully except.

Senator WHEELER. You think they are increasing?

Mr. HERNE. I have 50 grandchildren.

Senator WHEELER. There are more born than there are dying?

Mr. HERNE. And I have seven great grandchildren. Here's our reservation—2,000 acres taken right out of that [indicating on map]. They have got the right to buy reserved land.

Senator WHEELER. Who has got the right to buy reserved land?

Mr. HERNE. The whites.

Senator WHEELER. Well, they haven't unless the Indians want to sell it to them.

Mr. HERNE. We never sold it. Somebody else did the selling unknown to us.

The CHAIRMAN. What land do you refer to as having been sold that way?

Mr. HERNE. Right here.

The CHAIRMAN. Right here where the village of Hogansburg lies?

Mr. HERNE. What they call Salmon Fork—Massena. They sued the aluminum company at Massena. We never knew about it, but these people came around the fence.

Senator WHEELER. You mean the Indians in Canada?

Mr. HERNE. Yes. I think somebody is backing them. That is what I think.

Senator WHEELER. You say that you Indians on this reservation didn't bring suit?

Mr. HERNE. No; we didn't. We didn't know anything about it. Not many years ago they were going to sell our corner of the village there and go right straight to the St. Lawrence. That was about 3,000 acres or more. They were going to sell it.

Senator WHEELER. Who was going to sell it?

Mr. HERNE. The head ones.

Senator WHEELER. Aren't you one of the chiefs?

Mr. HERNE. Yes; but, you see, there is a boundary line there, and they come over and try to run the Americans.

Senator WHEELER. They can't sell your lands.

Mr. HERNE. They did a long time ago. Where did we get this New York annuity? Look at that [exhibiting a document]—1844. They drew their money—got paid off.

Senator WHEELER. While you are looking at that I will go ahead and ask a few questions. How do you convey property here—transfer it? Suppose you are leasing a piece of land, how do you transfer that?

Mr. HERNE. If one buys from another?

Senator WHEELER. Yes.

Mr. HERNE. We have a tribal clerk, and we go over there and draw up our agreement.

Senator WHEELER. And he keeps a copy of that agreement?

Mr. HERNE. He has got a regular book.

Senator WHEELER. So you have what you call an Indian title to the land?

Mr. HERNE. Yes.

Senator WHEELER. That has been your custom for how many years?

Mr. HERNE. Well, so long as I can remember.

Senator WHEELER. Do most of your children go to school? I mean, most of the children of the Indians?

Mr. HERNE. My children are mostly grown up.

Senator WHEELER. I don't mean your children.

Mr. HERNE. Yes. Most of the children go to school.

Senator WHEELER. Is there much liquor on this reservation?

Mr. HERNE. I guess it is flooded, just the same as on the outside.

Senator WHEELER. Is there more liquor here now than before prohibition?

Mr. HERNE. Yes. More youngsters use that stuff than I ever knew before prohibition.

Senator WHEELER. You feel that prohibition hasn't worked out very good for the Indians?

Mr. HERNE. No. That didn't work out right when it first came. When that came they brought hot water; ain't that so?

The CHAIRMAN. I don't know what you mean.

Mr. HERNE. Whisky.

The CHAIRMAN. Oh, I understand what you mean now.

Senator WHEELER. Before we had prohibition did they have anybody here to suppress liquor among the Indians?

Mr. HERNE. Why, I guess they used to hire a white man to go and get a pint or a quart, or something like that.

The CHAIRMAN. Did they have any officers to enforce the law?

Mr. HERNE. Some were arrested here, some time ago, over whisky. That was a long time ago. It was against the law to sell a glass of whisky to an Indian. It used to be.

Senator WHEELER. It is yet.

The CHAIRMAN. Yes; it is yet.

Mr. HERNE. It doesn't look so.

Senator WHEELER. They don't enforce the law?

Mr. HERNE. No. You can go to Canada. You can hire an Indian to go and get it from Watertown, Syracuse, Utica, and other places. You can tell an Indian, "I'll give you so much money," and let him go and get it, and he gets caught. A lot of them get caught that way.

Senator WHEELER. Some of the Indians are hired by bootleggers to carry whisky for them?

Mr. HERNE. I don't blame them if they want to make a little money.

Senator WHEELER. Are there many of them doing that sort of thing?

Mr. HERNE. Some time ago I heard a certain man was caught and arrested.

Senator WHEELER. Are there many bootleggers on the reservation here?

Mr. HERNE. I don't know. I only know there is a lot of drinking.

Senator WHEELER. And there is nothing done to enforce the law?

Mr. HERNE. No.

Senator WHEELER. What effect is that having upon the morals of the Indians here?

Mr. HERNE. In what way?

Senator WHEELER. I mean as to their health and morals.

The CHAIRMAN. The violation of the liquor laws.

Mr. HERNE. Oh, quite a lot of hurt.

Senator WHEELER. Is it getting worse?

Mr. HERNE. Yes. I don't see everything, but I hear a lot.

Senator WHEELER. Do they transport liquor down the river in boats to town here?

Mr. HERNE. Well, that is what I hear. I am not an officer to watch them.

Senator WHEELER. I am not asking you to tell me of some specific instances. You do know there is a lot of drinking on the reservation?

Mr. HERNE. Oh, sure.

The CHAIRMAN. You say occasionally some one is picked up for bootlegging?

Mr. HERNE. By troopers—State troopers.

The CHAIRMAN. Does a Federal prohibition officer ever come in here from Washington?

Mr. HERNE. On the reservation?

The CHAIRMAN. Yes.

Mr. HERNE. No.

The CHAIRMAN. You have never seen any of them?

Mr. HERNE. No.

Mr. GRORUD. Do you know anything about some alleged claim that the St. Regis Indians have against the State of Vermont?

Mr. HERNE. Yes.

Mr. GRORUD. Will you tell the committee what you know about that, if anything?

Mr. HERNE. Well, we always heard we had a claim over there, and I had a book about it, but I lost that, so Mitchell and I took a lawyer with us to Montpelier and we got the record and we copied it out. That is all I can give you. There were 2,000,000 acres there that belonged to us. That was never sold or leased or anything; it is there. They tell me they held a meeting after the Vermont flood and they wrote a book. They had a council after the flood, I suppose. I have seen the book and I have read it. One of them, in their meeting spoke up and said, "The best thing we better do is to give the Indians their land back." Another one spoke up and said "Not by a jug full." So they must know that we have a claim over there

The CHAIRMAN. Are there some of your Indians living over there in Vermont?

Mr. HERNE. No; not that I know of.

The CHAIRMAN. Is there any further statement you want to make to the committee?

Mr. HERNE. Well, I want that 6-mile square back. That is what I want.

The CHAIRMAN. Of course, that was through treaty with the State of New York, on the payment of money or for other lands.

Mr. HERNE. Where is the money that was paid for the 2,000 acres? We get \$60 a year for it; that is all.

Senator WHEELER. That was sold a long time ago.

The CHAIRMAN. That was taken out by treaty, the attorney general says.

Mr. HERNE. Taken out?

The CHAIRMAN. Yes; taken out—sold by the State by treaty, and the Indians were paid for it at that time, so the attorney general says. Wasn't that what I understood you to say, Mr. Manley?

Mr. MANLEY. That is right. It is my understanding that all of these properties were covered by one or the other of these treaties.

Mr. HERNE. All that land was disposed of. They never held a council for that before they sold it, never.

Senator WHEELER. How do you know?

Mr. HERNE. I don't remember of any, and I am a pretty old man—78.

Senator WHEELER. Seventy-eight years old.

Mr. HERNE. I never heard from older people than I, who are dead and gone now, that they ever held any council. They sold it unknown to the tribe.

The CHAIRMAN. Does your chief's council have the right to sell a portion of the reservation here to the State of New York without taking it up with the tribe?

Mr. HERNE. They can't

The CHAIRMAN. They can't do it?

Mr. HERNE. They can't do it.

Mr. GRORUD. How about the 43 acres of land that was sold some time ago, which was supposed to be sold for 5 gallons of whiskey? Do you know anything about that?

Mr. HERNE. Yes.

Mr. GRORUD. Can you tell the committee something about that?

Mr. HERNE. I have got that history down home.

The CHAIRMAN. How long ago did that take place?

Mr. HERNE. I think it was 1812—after the war.

Mr. GRORUD. After the war of 1812?

Mr. HERNE. Yes; they came and squatted there.

The CHAIRMAN. Is there anything further?

Mr. MANLEY. Is the history of that transaction in a book?

Mr. HERNE. Certainly.

Mr. MANLEY. And you have a copy of the book?

Mr. HERNE. Certainly.

Mr. MANLEY. Do you know the name of the book?

Mr. HERNE. History of St. Lawrence County.

Mr. MANLEY. Written by Franklin H. Huff? Or do you refer to Siever's history?

Mr. HERNE. The first reservation they made for us was 10 miles down here. It was 20 miles wide and 20 miles long, west, to the St. Lawrence, then it comes down, up to Massena, where we gave them the mile square here. For \$3 an acre they agreed to survey it, and after they surveyed it if there was anything coming they would pay it.

The CHAIRMAN. But there was never anything coming?

Mr. HERNE. It was never surveyed.

Senator WHEELER. I think that is all.

The CHAIRMAN. The next witness is Mose White.

STATEMENT OF MOSE WHITE, INTERPRETER FOR INDIANS, HOGANSBURG, N. Y.

(The witness was sworn by the chairman.)

The CHAIRMAN. Please give your name for the record.

Mr. WHITE. Mose White.

The CHAIRMAN. Where do you live?

Mr. WHITE. In the village of Hogansburg.

The CHAIRMAN. What you you do here? What is your business?

Mr. WHITE. I do interpreting for the Indians. That is mostly my life work.

The CHAIRMAN. You have lived here all your life?

Mr. WHITE. Yes.

The CHAIRMAN. Where were you educated?

Mr. WHITE. Well, what little I have got at the reservation school.

The CHAIRMAN. How many grades did you attend?

Mr. WHITE. Two—the second grade.

Senator WHEELER. What are the conditions here on the reservation?

Mr. WHITE. Why, the conditions are fairly good. I think they are improving.

Senator WHEELER. Do you have a statement that you want to make to the committee?

Mr. WHITE. Why, I don't know as I have anything definite.

Senator WHEELER. What about the school system here?

Mr. WHITE. I think the school system here is fairly good. It is improving. It has improved a lot within the last few years since we have had this big school here in the village with the good teachers we now have here. And the compulsory law we now have is a good thing for the younger generation. The younger students are quick to improve, up to the eighth grade. If they want to go beyond the eighth grade they have to go out of town for it.

The CHAIRMAN. Isn't there a high school in this village?

Mr. WHITE. No, sir. They have one in Bombay, 7 miles from here. I have a house and lot in the village that I pay taxes on and that entitles my children to go to the village school. When they pass the eighth grade here they go to Bombay.

The CHAIRMAN. Are there any other Indian children going to that high school?

Mr. WHITE. I think there is one from the reservation going to that high school now. They have the privilege of going there if they want to.

The CHAIRMAN. Without paying tuition?

Mr. WHITE. I don't think they have any tuition to pay. I think the State takes care of that.

The CHAIRMAN. What about the health conditions on the reservation?

Mr. WHITE. Why, they are not too bad. They are improving all the time. I think things are getting better.

Senator WHEELER. They look like a husky lot. Is there much liquor on the reservation?

Mr. WHITE. I don't think it is any worse on the reservation here than it is in the surrounding community.

Senator WHEELER. It is all bad.

Mr. WHITE. Yes. It has been kind of bad, but I think it is improving. I think the Indians as a rule are getting educated and are learning to live up to the laws. I think they are improving all the time. I don't think we are losing ground. I think they are making progress. We have enforcement officers. Sometimes we don't like the methods they sometimes use, but it is always for the best. Now and then we have Indians caught for bootlegging and they are taken into court, but they are treated very leniently. They give us a good talking to and when we come back we do better. Now, as a general thing I think the Indian is getting along fairly good.

The CHAIRMAN. What about the Indians voting? Do you vote?

Mr. WHITE. I do; yes.

The CHAIRMAN. Where do you vote?

Mr. WHITE. In the town of Bombay, where I live.

The CHAIRMAN. Do many of the Indians vote?

Mr. WHITE. I believe that many of them that live off the reservation vote. Most of the people that live on the reservation feel that they haven't any part in it, and they don't care to take it up.

The CHAIRMAN. Well, of course, those of you who live off the reservation are taxpayers and you feel that you have a little more right to vote.

Mr. WHITE. Yes; sure.

The CHAIRMAN. But under the late law passed by Congress all the Indians have the right to vote.

Mr. WHITE. Yes; I understand that, and it doesn't interfere with the Indians' rights at all.

The CHAIRMAN. Not at all.

Senator WHEELER. Not at all.

Mr. WHITE. It will take time for them to see the advantage of it, but I think gradually it is going to work out, and everybody will come to see that there is no harm in it.

The CHAIRMAN. On most of the reservations throughout the country the Indians do vote.

Mr. WHITE. So I understand.

The CHAIRMAN. In my State and Senator Wheeler's State they practically all vote.

Senator Wheeler. They vote in practically all the States in the Union excepting the State of New York. They have a Vice President.

Mr. WHITE. I think we are getting right close into politics when we get up that far.

Mr. GRORUD. How many children have you?

Mr. WHITE. Five.

Mr. GRORUD. What education have you been able to give your children?

Mr. WHITE. Well, I have taken the oldest boy through college, in Galesburg, Ill.—Knox College. He is now in Chicago, employed by the Western Electric people. Then I have a girl who taught two years on the reservation. She got married and quit teaching. Then I have two more daughters who are high-school graduates. One of them is taking up nursing and she is in training in a hospital in Malone. Then I have a second boy in the school in Bombay.

Senator WHEELER. You have given your children a good deal of education.

Mr. WHITE. Yes, sir; my wife and I have sacrificed a whole lot to do it without getting any help, but it has been a joy to us.

Mr. GRORUD. Did you have to pay tuition here?

Mr. WHITE. No, no; I pay taxes.

Mr. GRORUD. How about transportation?

Mr. WHITE. We paid that.

Mr. GRORUD. Any other Indian on the reservation would have to pay transportation?

Mr. WHITE. They would have to pay transportation, absolutely.

Mr. GRORUD. It is quite a burden on any one to send children away from home, for the purpose of giving them a high-school education?

Mr. WHITE. It is quite a trying proposition when you get four or five away from home hollering for money, fraternity money, and everything else.

Mr. GRORUD. How many Indians on the reservation have availed themselves of a high-school education?

Mr. WHITE. Well, we have Joseph Solomon. I think he is attending the College of Technology at Troy. He is a graduate from the high school here.

Mr. GRORUD. Don't you think there would be more high-school graduates if a high-school were located right here in Hogsburg?

Mr. WHITE. Absolutely. Another thing, when they reach the age of 16 they are no longer subject to the compulsory law, and if they are back in their classes they drop out; that is, some of them drop out. The compulsory law hasn't been in force very long. The younger children who are in school now are getting along very fast, and by the time they finish their grade school work they won't be 16, and if there was a high school right here in Hogansburg it would be convenient for the people to send their children there. I think it would be quite a wonderful thing. Of course, it is quite a proposition to pay their way, but it is worth it in the long run.

Mr. GRORUD. What is your opinion as to whether the Indians would be better off if they were absorbed in the citizenry of the State?

Mr. WHITE. Here is my view. If we are to prepare our generation to get out and meet the people of the world we have to get them away from the reservation. We have to teach them to go out and compete with people and fight their battles for themselves. If you educate them locally and keep them here they don't know what the outside world is. I think it is a pretty good policy to let them go away and get the experience when young.

Mr. GRORUD. You believe in sending Indian children to the public schools?

Mr. WHITE. Absolutely, I do.

Senator WHEELER. You believe they will never get very far ahead unless they do get an education and learn to depend upon themselves?

Mr. WHITE. Surely.

Senator WHEELER. Sooner or later they will have to get out and compete with the rest of the people of the United States.

Mr. WHITE. That is my idea. If you let them go out when young and come in contact with the people, I think you are preparing them all the time to meet the future.

Mr. GRORUD. Could you give the committee some information with reference to the Hogan mill site and the power site on the St. Regis River?

Mr. WHITE. I am not as familiar with that as some of the older people are—only from hearsay. Of course, I have inquired somewhat into it. I understand there has been a lease by Mr. Hogan at some time through the State. There was some lease of some kind made. There was a portion of this on the other side of the river, including the power site mill. It has been there for a long time. There has been a water plant there, mill, and so on, and later on there was property on this side. Now, I own property on this side and I have a deed to it, but I have never been able to find out how far back it dates.

The CHAIRMAN. How long have you held that?

Mr. WHITE. Why, I have held it about 11 years. The deed was to the party that held before me. I don't know how far back it dates. I have talked at various times with the Malone Power & Light Co. on rights, but they seem to be firm. They have taken back their deeds from the old Hogan estate. Of course, I am not familiar with that. There are others that can give you better information on that.

Mr. GRORUD. Do you know Mr. Besior?

Mr. WHITE. Yes.

Mr. GRORUD. Could you get him up here before the committee?

Mr. WHITE. I can try.

Mr. GRORUD. He has lived here 94 years?

Mr. WHITE. Yes.

The CHAIRMAN. Mr. Saunders, you take the same view—that the Indians have the right to vote without losing their tribal rights?

Mr. SAUNDERS. I do.

STATEMENT OF JOHN D. HAGUE, CHIEF SPECIAL SCHOOLS BUREAU, DEPARTMENT OF EDUCATION, ALBANY, N. Y.

The CHAIRMAN. Just give your full name for the record.

Mr. HAGUE. John D. Hague.

The CHAIRMAN. Your official position.

Mr. HAGUE. Chief, special schools bureau, department of education.

The CHAIRMAN. What are your duties in connection with the Indian schools?

Mr. HAGUE. The Indian schools are assigned to my bureau. I have to administer and supervise them as part of my work.

The CHAIRMAN. Do you also visit the Indian schools in connection with your work?

Mr. HAGUE. I visit each school about three times a year.

The CHAIRMAN. Approximately how many Indian schools do you have?

Mr. HAGUE. There are about 25 schools, and there are about 39 teachers employed in the school. Most of the schools have one teacher, being of the rural school type.

The CHAIRMAN. The question was brought up here as to whether or not the Indian children were allowed to go to the high schools here without paying tuition. Do you know anything about that?

Mr. HAGUE. I know of no high school that denies admission to Indian children. I believe you will find every high school willing to admit Indian children free of charge.

The CHAIRMAN. In some places they do go to high school, I understand.

Mr. HAGUE. Yes; I would say practically all of the graduates make some start in the high schools. Last year we had 21 graduates. I mean on all of the New York State reservations.

The CHAIRMAN. From the eighth grade.

Senator WHEELER. If you had a high school here in this community, don't you think you would have more going to high school?

Mr. HAGUE. Possibly. But you remember the point Moses White made, that it might be a good idea to send them away to schools so that they would have more knowledge of the ways of the world. Several years ago I introduced a bill to establish high schools for Indian children.

Senator WHEELER. If you had a high school some distance away from here, isn't it a fact that most of the parents couldn't afford to

send them to high school, and that that would mean they couldn't get an education beyond the eighth grade?

Mr. HAGUE. Most of the Indians seem to be willing to send their children away to school. I believe the records of the Thomas Indian School shows that. The State has to be very diligent about it, because most of them seem to be too anxious to send their children away to school.

The CHAIRMAN. What Senator Wheeler meant was that they would be required to pay tuition and that they couldn't afford to do it.

Senator WHEELER. Suppose they had a high school in this community, don't you think that a great many of these Indian children would go to high school and try to get a better education?

Mr. HAGUE. I think the time is coming when we will perhaps need a high school, but a few years ago people only went through the first, second, and third grades. Last June was the first time we had any graduates at this school. Most of the 21 came from other reservations. As time goes on perhaps we will have more, and in a few years perhaps we can have a high school in this community.

Senator WHEELER. How far from here do they have to go now to attend high school?

Mr. HAGUE. Bombay, I presume—7 miles.

Senator WHEELER. That isn't so far. Suppose you had a bus—wouldn't that overcome the transportation difficulty? The State would at least be able to furnish a bus so that these Indian children could go to high school.

Mr. HAGUE. Yes. I have asked for money so that we could take the Indian children to high school.

Senator WHEELER. Don't you have busses to take children to high schools.

Mr. HAGUE. Yes; but we don't take these children on this reservation to high school. We pay \$950 a year, and it is a lot of trouble to bring these children to the central school here, on account of the compulsory law. I think they realize that it is the best thing for them and they seem to be cooperating to a considerable extent.

The CHAIRMAN. It is probably no more trouble to them than it is for the white people.

Mr. HAGUE. In a few years probably there will be no trouble. Just now there seem to be a few that dispute the compulsory attendance. Gradually the Indians are seeing the light.

Senator WHEELER. They are beginning to realize that it is necessary for them to have an education, just the same as it is necessary for the white children to have an education.

Mr. HAGUE. Yes; most of the children are coming forward and saying that it is the best thing that ever happened to them.

The CHAIRMAN. Do you have the figures for the per capita cost to the State to maintain this Indian school?

Mr. HAGUE. I haven't the per capita cost. I might state that there are about 825 pupils in the Indian schools under State supervision. There are 39 teachers, whose salaries amount to \$45,475. The Indian schools cost us for repairs \$4,800 a year; and for fuel,

oil and power, \$2,400 a year; for books, equipment and supplies, \$2,400.

Senator WHEELER. Do you furnish them free books in this State?

Mr. HAGUE. The State furnishes free books to the Indian children. In most of the white communities the children have to buy their own books. In New York City and some other places they are provided to the public schools at public expense.

Senator WHEELER. You get no help from the Federal Government for the school children, do you?

Mr. HAGUE. We get no help from the Federal Government.

Senator WHEELER. Go ahead if you have any further statement.

Mr. HAGUE. I mentioned before to you that we pay \$950 a year for the transportation of the children on this reservation.

The CHAIRMAN. Is this the only reservation on which you have transportation facilities?

Mr. HAGUE. It is the only reservation officially on which we have transportation facilities. On the Allegany Reservation there are quite a number of high-school graduates, and quite a number go to high school. Sometimes during the bitter winter weather we do provide some kind of transportation. There is no official amount allotted for it, but sometimes I have been able to get \$50 or \$75 during the months of January and February.

Mr. MANLEY. Did the figures you gave cover the Thomas Indian School?

Mr. HAGUE. No.

The CHAIRMAN. Tell us about the Thomas Indian School.

Mr. HAGUE. It is an orphanage for poor and indigent Indians, so we have nothing to do with that.

The CHAIRMAN. Mr. Wallace, can you tell us about it?

Mr. WALLACE. On the Cattaraugus Reservation two of the local schools are attended without payment of tuition. The State takes care of the children from those two districts.

The CHAIRMAN. What does that amount per capita?

Mr. WALLACE. I should say it is about \$80 per year.

Senator WHEELER. I think the Indians in New York ought to know and appreciate the fact that they are being treated better, as far as education is concerned, than the Indians in any other State. The State of New York is doing more for the Indians than any other State that I know of.

The CHAIRMAN. The State of New York is doing better for its Indians than the Government is doing in the way of education.

Mr. WALLACE. We are asking for \$110,000 for a modern consolidated school to take the place of what we have now. What we have here now is what we had here before the compulsory law went into effect. Since then we have an opinion from the attorney general that it is up to us to cooperate with the Indians and give them the best we can.

The CHAIRMAN. Would that new school building contemplate facilities for anything more than the eighth grade?

Mr. WALLACE. The building could be planned so that it could be extended as we needed additional rooms.

The CHAIRMAN. That will be all. Thank you.

STATEMENT OF JOHN WILLIAM BLACKETT, B. A., M. D., FORT COVINGTON, N. Y.

The CHAIRMAN. Please give your full name, Doctor.

Doctor BLACKETT. John William Blackett.

The CHAIRMAN. And your home is where?

Doctor BLACKETT. Fort Covington.

The CHAIRMAN. How far is that from here?

Doctor BLACKETT. Ten miles.

The CHAIRMAN. You are the contract physician looking after the health of these Indians on the reservation?

Doctor BLACKETT. Just the indigent Indians. Those who can pay their own bills pay.

The CHAIRMAN. How much does the State of New York pay for your services?

Doctor BLACKETT. Only a nominal sum; \$600 a year.

Mr. MANLEY. It was only two years ago when the matter of Indian affairs, so called, was transferred from the department of education to the department of social welfare, and this appropriation is made by the State legislature and goes to the board of supervisors of the county, and by them it is paid to Doctor Blackett.

The CHAIRMAN. It doesn't make any difference to Doctor Blackett so long as he gets his money. What are the general health conditions of the Indians on this reservation?

Doctor BLACKETT. They are good, bad, and indifferent. Among the Indians that are educated the health condition is just as good as it is among the average whites. Then the health condition among the indifferent class is not so good, naturally, due to a lower degree of intelligence in the care of themselves and to their financial condition. Then comes the poorer class where the hygienic surroundings and sanitary conditions are the lowest prevailing here on the reservation.

The CHAIRMAN. And it is with that class that you have to do with mostly?

Doctor BLACKETT. No; I have the higher classes, as a rule.

The CHAIRMAN. I mean officially.

Doctor BLACKETT. Yes.

The CHAIRMAN. And, of course, you practice among the others who can afford to pay.

Doctor BLACKETT. Yes.

The CHAIRMAN. How do you determine whether they can pay or can not pay?

Doctor BLACKETT. I know every man, woman, and child on the reservation.

The CHAIRMAN. If you can not collect from them you charge it up to their account?

Doctor BLACKETT. Well, the council is so small you can't charge very much.

Senator WHEELER. Suppose you get a call from an Indian out here, do you come up here?

Doctor BLACKETT. Yes; I administer to them right at their own homes.

Senator WHEELER. Are there any hospital facilities for them here at all?

Doctor BLACKETT. The nearest hospital is at Cornwall, across the river; and there is another at Malone. I want to say to you gentlemen that seven-eighths of the Indians pay their bills. They are away ahead of the white people, on the whole. They are specialists in their line of work. An Indian won't work like a white man. For instance, in putting in a power line, the white men get 30, 50, 60, and 70 cents an hour. These Indians get \$1.25 an hour—\$15 a day. In the situation the only bugbear is that they won't accumulate their money. They go home and the surroundings have a tendency to pull them down, and they spend their money. As a rule the Indian is honest. I have practiced among them 30 years and I haven't a cent on the books against them. Recently I consulted with our leading merchant and he told me that he would rather have two Indian families than a dozen Irish or Scotch families in the town. Any man that treats an Indian right will be reciprocally treated because there is a class that does everything on the level.

The CHAIRMAN. I would judge from that that these Indians can take care of themselves as well as the white people can.

Doctor BLACKETT. Better—outside of a few widows with families.

The CHAIRMAN. Oh, of course.

Doctor BLACKETT. Yes, outside of a few who have met with one misfortune or another, they look after things pretty well, indeed.

The CHAIRMAN. Do you have any trouble getting the Indians into hospitals where they need to be sent to a hospital?

Doctor BLACKETT. No, we are able to handle that whenever the occasion arises. We have a very good nurse on the reservation. She gets in touch with the higher authorities. She visits every house and if they have a case of sickness she is in touch with them and if she thinks it is serious she notifies me.

The CHAIRMAN. What about the infant death rate, Doctor, among the Indians? Would you say it is low?

Doctor BLACKETT. Yes, it is low. The Indians have midwives at child birth and they do about 95 per cent of the work. I have four on the American side. Of course, I do a lot of work on the Canadian side, too. I can practice anywhere in Canada and anywhere east of the Mississippi. They have midwives, and they send for the doctor when it is necessary. Yes, the infant death rate is lower among the Indians than it is among the whites.

Senator WHEELER. How do you account for that, Doctor?

Doctor BLACKETT. Most of the mortalities are among the first born, but when the mothers get older they are better able to take care of their babies. They have become experienced and educated. Our principal cause for worry here is kidney ailments and convulsions.

The CHAIRMAN. You say it is customary for the Indians to have midwives?

Doctor BLACKETT. Yes; with the nurse, Miss Martin, who is skillful and efficient. She helps them out. Then we have clinics, and we have them come in from the third month to the ninth month. Antiseptics are administered, and so on, and they are instructed during the last five months.

The CHAIRMAN. Do you have much tuberculosis on the reservation?

Doctor BLACKETT. Yes.

The CHAIRMAN. It is higher than among the whites?

Doctor BLACKETT. Yes; decidedly.

The CHAIRMAN. It is largely due to what cause?

Doctor BLACKETT. The main cause is the unhygienic surroundings, and then they live in the same house. The whites generally move in cities, and that is a great factor in saving them—they move. If they lived like the Indians do the germ would be there. The Indians stay in the same house year in and year out, and it is contact that causes the Indians to have it.

Senator WHEELER. How about venereal diseases among the Indians?

Doctor BLACKETT. It is quite prevalent, and I have more cases of it than they have in the large hospitals. They are suspicious just the same as the white people, and I doubt if we could ever get them to come for salvarsan—Six O Six, as they call it—and the disease is more or less prevalent among the younger ones, say 13 years old. Then the automobile and all the modern conveniences and contrivances combine to increase the trouble among the younger generation. They have too much money. But you have got to live among the Indians to appreciate them. They have always been foot-balled around, but if you treat them half way they will stand by; they will fight for you.

The CHAIRMAN. What suggestion would you make to improve this venereal disease condition?

Doctor BLACKETT. What we need is a clinic and to get the Indians to come in and take regular treatment. The State could supply the serum. It wouldn't cost them anything.

Now, in view of the large number of luetic infections some provision should be made for the taking of Wassermann tests and the giving of salvarsan, toxin—autotoxin. Immunization is needed. Children consultation clinics are important, but the follow-up work is ineffective. Many of the cases need tonsillotomy, and they need glasses for correction of refractive errors, and so on, but the parents usually are not able to pay for such treatments. Many of these cases have been operated upon without compensation, but it is unfair to the local physicians to ask them to do too many at their own expense. And parental clinics are important if the instructions are carried out.

The CHAIRMAN. They have Government assistance?

Doctor BLACKETT. Yes; that is right. The point is, if we could only get the Indians to come in.

Senator WHEELER. Do you have any trachoma up here among the Indians?

Doctor BLACKETT. None whatever.

Senator WHEELER. Out West they claim there is a great deal of trachoma among the Indians.

Doctor BLACKETT. We haven't any of it here—none whatever. We have a lot of specific eye trouble, where they lose their sight and come in. That is due largely to hereditary syphilis. Dr. Denny, of Kansas City, claims that about 67 per cent of all our locomotor ataxia, and so on, is due to hereditary syphilis.

The CHAIRMAN. Of course, the health condition is something that should be looked after.

Doctor BLACKETT. Oh, yes. But they are getting better because they are getting out more, and the younger generation is going to work, and so on.

The CHAIRMAN. Is there any futher statement you care to make, Doctor?

Doctor BLACKETT. No, thank you, Senator.

Senator WHEELER. How about the liquor situation?

Doctor BLACKETT. Why, I think it is just the same here as it is anywhere else. Some think there is more liquor, but there isnt. A noisy fellow gets a bottle and gets drunk, then he hollers, just on the same principle that an uneducated man goes out and hollers. The fellow that was a secret drinker and kept the breweries going never makes a noise. It isn't anything compared with what it was when liquor was licensed, but you know a lot of fellows will make a noise and holler when drunk. I am neutral in the matter.

The CHAIRMAN. But might there not be better enforcement than there is?

Doctor BLACKETT. No, Senator, I think the enforcement here is very, very good. Most of the liquor is brought in by fellows working in other towns. I think the whites are to blame. They hire Indians to bootleg. The Indians are not bootleggers themselves, they are hired by the white men.

The CHAIRMAN. Do they submit to the State law?

Doctor BLACKETT. Sure. If we can hold the country for about five years more we will never hear about liquor.

The CHAIRMAN. I think you are right about that.

Doctor BLACKETT. I like a drink myself once in a while. I am not a bone-dry man. We have to educate the public. Take the men in our big cities. They used to have nothing after pay day. To-day they are going down the street and buying bonds and automobiles. The condition is decidedly better.

The CHAIRMAN. There isn't any question about it.

Mr. GRORUD. How long, Doctor, have you lived in this community?

Doctor BLACKETT. Thirty years.

Mr. GRORUD. Do you know anything about the property rights of the Indians with reference to the power sites at Hogansburg and at Masena where the Aluminum Co. is operating?

Doctor BLACKETT. I know only what I have heard.

The CHAIRMAN. That will be all. Thank you, Doctor.

STATEMENT OF HENRY BESIOR, HOGANSBURG, N. Y.

The CHAIRMAN. Please state your name.

Mr. BESIOR. Henry Besior.

The CHAIRMAN. How long have you lived here?

Mr. BESIOR. Since 1845.

The CHAIRMAN. That is a long time.

Mr. BESIOR. It doesn't seem very long, but it is quite a while.

Senator WHEELER. How old are you, Mr. Besior?

Mr. BESIOR. I will be 95 years old on the 1st day of June.

Senator WHEELER. You are just a young man now.

Mr. BESIOR. Just beginning life.

Mr. GRORUD. Mr. Besior, you remember my talking to you last summer about the power site?

Mr. BESIOR. Well, I don't know. There were so many men there I couldn't tell you exactly.

Senator WHEELER. He looks like all the rest of the Scandinavians?

Mr. BESIOR. Hah, hah hah.

Mr. GRORUD. Do you know Mr. Hogan that owned the mill?

Mr. BESIOR. Yes, sir, I do.

Mr. GRORUD. When did he operate the mill on the St. Regis River here at Hogansburg?

Mr. BESIOR. He didn't operate the mill himself. A man by the name of Oliver operated it for him.

Mr. GRORUD. When was that?

Mr. BESIOR. That was about the time I came here.

Mr. GRORUD. When did you come here?

Mr. BESIOR. About 1845.

Mr. GRORUD. You came here about 1845?

Mr. BESIOR. I think it was in May that I came here.

Mr. GRORUD. Did Mr. Oliver own the property?

Mr. BESIOR. I don't know anything about it. I don't know whether Mr. Hogan owned it, but I think Mr. Hogan owned it.

Mr. GRORUD. Did he operate the sawmill there across the river?

Mr. BESIOR. He operated both.

Mr. GRORUD. When did they cease operating?

Mr. BESIOR. Didn't cease until it burned down.

Mr. GRORUD. When did it burn down?

Mr. BESIOR. Just before Morris bought it, when it was advertised for sale here.

Mr. GRORUD. About four years ago?

Mr. BESIOR. Yes; I guess that was about the time.

Mr. GRORUD. You lived at that time right at the power site?

Mr. BESIOR. I lived in the same place I live now.

Mr. GRORUD. How did you acquire that property?

Mr. BESIOR. I got that from Mr. Hogan.

Mr. GRORUD. You got it from Mr. Hogan?

Mr. BESIOR. Yes.

Mr. GRORUD. How many acres?

Mr. BESIOR. Twenty-six acres.

Mr. GRORUD. Did you buy the land from Mr. Hogan?

Mr. BESIOR. He gave it to me.

Mr. GRORUD. That was in 1845?

Mr. BESIOR. Yes, sir.

Mr. GRORUD. And you have lived there ever since, continuously?

Mr. BESIOR. Pretty nearly. I had no home there. I didn't call it mine until I paid for it, and after I paid for it I fenced the place. An old man was here selling property. Well, John Sullivan bought this property here, and Francis Cronin bought that [indicating].

Mr. GRORUD. What place is that you are talking about? Where you are living now?

Mr. BESIOR. This place on this side of the river. When I saw it was going I went over there to buy that place. I had cow fences there.

The CHAIRMAN. Do you know how Mr. Hogan got the land in the first place from the Indians?

Mr. BESIOR. No, I heard he got a half mile square. He divided it to suit himself and he sold it to people that wanted it.

Mr. GRORUD. When did you build your house?

Mr. BESIOR. I didn't build the house; the house was on the land there. I built a part of it, but the old house, when I first went in there, was built when I went there.

Mr. GRORUD. Your land abuts the power site, where the construction is now taking place?

Mr. BESIOR. It doesn't abut; there is a road there and I bought on the other side. One side is at the river and the other side is on the main road. That is what we call "Mill Street."

Mr. GRORUD. How far from the mill site do you live—from the dam?

Mr. BESIOR. Oh, probably two hundred and some feet.

Mr. GRORUD. Did you ever negotiate with the Malone Power & Light Co. with reference to—

Mr. BESIOR (interrupting). No; not until they came there to survey the place.

Mr. GRORUD. What about that?

Mr. BESIOR. Well, they came there and wanted to survey that land. I supposed they wanted to buy that land, but instead of wanting to buy it they said—

Mr. GRORUD (interrupting). Did they claim they owned your land?

Mr. BESIOR. I told them I wanted them to keep off of it.

Mr. GRORUD. The power people claimed they owned the land that you were living on?

Mr. BESIOR. Yes. The boss told me he didn't want my land, that he would probably buy it later on. What they wanted was the right to work on my land out into the river. I told them as long as they didn't disturb my land, they could work on the river if they wanted to.

The CHAIRMAN. You have a deed to your property?

Mr. BESIOR. Yes. I have a deed to my property, at home; yes.

Mr. GRORUD. Signed by Hogan?

Mr. BESIOR. Well, I don't know whether it is signed by Hogan. I didn't buy it from Hogan; I bought it from another man.

Mr. GRORUD. Who did the Malone people buy the power site from?

Mr. BESIOR. Francis Cronin and Morris Langtry. He is the last man that bought the mill there.

Mr. GRORUD. They bought that from Hogan?

Mr. BESIOR. No; they bought it from Mr. Mills, the man that kept that drug store on the other side of the river.

Mr. GRORUD. Who did Mills buy it from?

Mr. BESIOR. Sam Barlow.

Mr. GRORUD. Who is Sam Barlow?

Mr. BESIOR. Sam Barlow, I don't know; he is dead a long time ago. He went off to California and died. He still lived there.

Mr. GRORUD. Who did he get it from?

Mr. BESIOR. Simpson & Barlow.

Mr. GRORUD. Who did they acquire it from?

Mr. BESIOR. I couldn't tell you.

Mr. GRORUD. You have lived right on the bank of the river for 67 years?

Mr. BESIOR. Yes, sir.

Mr. GRORUD. Has there been any navigation on the river?

Mr. BESIOR. No, not that I know of. Well, there were a few rafts that went down here—sticks, timber—one year, but that was a long time ago. A fellow that was shifting it up here in the north woods took the timber down here. That was the only time I remember.

Mr. GRORUD. They have transported logs down the river?

Mr. BESIOR. Yes, big timbers.

Mr. GRORUD. There has been some transportation by boats on the river, hasn't there?

Mr. BESIOR. Yes, there has been a little freight handled.

Mr. GRORUD. Up the St. Regis and the St. Lawrence?

Mr. BESIOR. No, no; just on the river.

Mr. GRORUD. I mean on the river. There has been some traffic on the river?

Mr. BESIOR. Yes.

Mr. GRORUD. Is there any now?

Mr. BESIOR. No.

Mr. GRORUD. Previous to the building of the dam down there there had been some traffic on the river?

Mr. BESIOR. In little boats—canoes, and so on.

Mr. GRORUD. Was there any freight traffic on the river?

Mr. BESIOR. Well, the freight went down below Fulton.

Mr. GRORUD. How far is that from the Hogansburg power site, the present dam site?

Mr. BESIOR. Four hundred feet or more.

Mr. GRORUD. Practically, it came up as far as 400 feet from here [indicating]?

Mr. BESIOR. Oh, yes, about. They got to the store here.

Mr. GRORUD. And there is considerable business on the river up to that point?

Mr. BESIOR. To the store. But they moved the store up the river and they do their business there, but they keep the other building for a storehouse.

STATEMENT OF ALEX. WHITE, ST. REGIS RESERVATION

The CHAIRMAN. Your name is Alex. White?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Where do you live?

Mr. WHITE. On the reservation.

The CHAIRMAN. Whereabouts on the reservation?

Mr. White. Why, in the west end of the reservation, between here and Nyando.

The CHAIRMAN. Do you farm there?

Mr. WHITE. Yes, sir.

The CHAIRMAN. How much land do you farm?

Mr. WHITE. Somewhere around 200 acres.

The CHAIRMAN. Is practically all your land under cultivation?

Mr. WHITE. Why, about 75 per cent of it. About that much of it is in a good state of cultivation.

The CHAIRMAN. What about the balance of it?

Mr. WHITE. Well, it is just about half farmed, I should say. It has been neglected.

The CHAIRMAN. Poor land, is it?

Mr. WHITE. Well, yes; there is some swamp land. We need drainage very bad, for some of it.

The CHAIRMAN. Could it be drained at moderate expense?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Has farming been fairly profitable here?

Mr. WHITE. It is improving; yes.

The CHAIRMAN. Things are getting a little better?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Do you keep livestock?

Mr. WHITE. Yes, sir.

The CHAIRMAN. What is the general condition of the people out in the end of the reservation where you live?

Mr. WHITE. Why, good. They are farmers, mostly—agriculturists.

The CHAIRMAN. They are getting along all right?

Mr. WHITE. Mostly; yes—in dairy farming.

The CHAIRMAN. The general health conditions are pretty good there?

Mr. WHITE. Very good.

The CHAIRMAN. Do your children go to school?

Mr. WHITE. Yes, sir.

The CHAIRMAN. Do many of them go beyond the eighth grade?

Mr. WHITE. They do lately. They didn't used to, but most of them do now.

The CHAIRMAN. You think more of them go to high school now than there did a few years ago?

Mr. WHITE. Yes.

The CHAIRMAN. Where did you get your education?

Mr. WHITE. On the reservation—what little I have.

The CHAIRMAN. Have you any further statement you want to make to the committee?

Mr. WHITE. Why, I would like to make this statement regarding the progress of our Indians. The best way to assure their progress is to improve the schools, educate them. There isn't any doubt that they will then be able to solve their own problems. That is my personal belief.

The CHAIRMAN. In other words, if they are given an education they will take care of themselves.

Mr. WHITE. Yes, sir. I want to compliment the State Department of Education on what they are doing for the reservation. They have improved a great deal within the past ten years. Before that the education system on the reservation was a disgrace to New York State. That department didn't know it, but when we Indians brought that fact to their notice there was an immediate improvement. Officials were removed, and a noticeable change came about very quickly. That was when Mr. Hague came in. It wasn't long after that before we had the compulsory law. With the increased attendance under the compulsory law the buildings are no longer fit to take care of the children. The buildings were all right under the old conditions, but we are very much in need of better buildings now.

The CHAIRMAN. Mr. Hague stated that they are making arrangements to improve their buildings.

Mr. WHITE. Yes, sir. Before Mr. Hague came in the officials misrepresented the Indians to the department, and that was one reason the Indians didn't get more attention. In other words, they gave the impression to the department that the Indians didn't have the gray matter. They gave the impression that if you got an Indian to speak English you had done all you could with him. The department came to realize the conditions and gave us better schools, and there has been a gradual and steady improvement ever since. I may also say that the State college of agriculture at Ithaca, N. Y., has what they call an Indian extension service; that is, along agricultural lines, and on each reservation they have a chairman, an Indian, of course. He is appointed. I happen to be the one appointed on this reservation. Annually we meet at the department and discuss agricultural conditions, and, as I see, and as I have been reporting, I think our service has been improving; and as I meet other Indians from other reservations—Salamanca, Tuscarora, and so on, they, too, think they are improving. If we could get a professor from Cornell to come down to lecture to us, I think it would be a tremendous advantage.

The CHAIRMAN. Do you vote?

Mr. WHITE. No; I have never voted. I live on the reservation, and I was told by the voting committeeman here that they would have to have a new voting district—that we couldn't come into their district and vote.

The CHAIRMAN. In other words, under present conditions you have no election precinct where you could vote?

Mr. WHITE. That is it. I believe the same as you stated. I don't believe it interferes with Indian rights to vote.

The CHAIRMAN. There is no question about that.

Mr. WHITE. I don't believe it does.

The CHAIRMAN. There are provisions, of course, in the State law allowing you to set up voting precincts, but the State authorities will look after that.

Mr. WHITE. I see.

The CHAIRMAN. On this reservation there are probably seven or eight hundred voters.

Mr. WHITE. Yes; more than that.

The CHAIRMAN. That is, men and women.

Mr. WHITE. More than that. There are probably a thousand.

The CHAIRMAN. And eight or ten hundred voters here would have quite an influence in your local politics and county and State politics, too.

Mr. WHITE. They certainly would.

The CHAIRMAN. And you would be able to get better roads, improve the school conditions, and all that. Like Senator Wheeler, I am strongly convinced that it would be to your advantage to educate your people to vote and get them to take part in the government.

Mr. WHITE. Certainly.

The CHAIRMAN. It would be for your benefit and the benefit of the boys and girls growing up.

Mr. WHITE. I think so.

The CHAIRMAN. Have you any further statement?

Mr. WHITE. I would like to say a word in regard to the liquor traffic on the reservation. I believe the whites who come here and have unloading stations on the reservation lead our people into it. But I believe the Indians here are learning, and I believe the condition on the reservation is better to-day than it was before prohibition came. That is my statement.

The CHAIRMAN. But don't you think there might be better enforcement here to prevent these white bootleggers coming into the reservation?

Mr. WHITE. Yes, sir; that is my idea of it.

The CHAIRMAN. I think that is all.

STATEMENT OF LESLIE M. SAUNDERS—Resumed

Mr. GRORUD. Will you make a statement to the committee with reference to the conditions as you found them when you took office, with reference to the per capita payments to the Indians?

Mr. SAUNDERS. My predecessor was shot in February, I think it was.

The CHAIRMAN. What year?

Mr. SAUNDERS. 1929. I was appointed in March, 1929. Under the law of the State of New York I make a report by the 1st of December. I have a copy of that report with me. There was turned over to me from my predecessor the sum of \$147.42, rather, this money came from his estate after his death, as there was no money on deposit to the credit of the State of New York, or to the credit of my predecessor's representative for the State of New York. I was told by the attorney for his estate that the estate was bankrupt. We went to the Fort Covington Banking Co. and found that he had only one account there, and that was his personal account. I brought pressure to bear on the administrator and said this money must be turned over to the State and that we didn't want to share with the creditors, as the State had to have its money. After considerable time this \$147.42 was turned over to me and I gave credit for it. That was what he said he had left at the end of the year, in December, 1928.

The CHAIRMAN. Did he keep books to show that that amount was correct?

Mr. SAUNDERS. He did, in a large book that I had in my possession. He made a report and the report showed that the money had been paid over. I have had applications from various Indians for back annuity money which they said has not been paid to them. Some were for 2, 3, 4, and 5 years back, and they claimed they hadn't received any annuity money during that time.

The CHAIRMAN. How was this annuity money paid by your predecessor—by check or cash?

Mr. SAUNDERS. Well, if paid on the annuity day it was paid in cash, but if paid after the annuity day it was paid by check. When they were paid a cross-mark was entered after their names.

In such cases for back payment I go to the recorder for the years 1926, 1927, and 1928, but I can find no copy of records back of that time. I suppose the State has reports prior to that. I find in many

cases there are cross marks showing that payment had been made by my predecessor, whereas the annuitant says he hasn't received it. I have paid out \$1,757.70, and have remaining in my possession \$433.44.

Senator WHEELER. How do you make payments—by check?

Mr. SAUNDERS. I put in two whole days, with five helping me, making six in all, and I paid in cash, as my predecessor had done. Then, since that time and up to the present time I have been paying by check.

The CHAIRMAN. When you pay in cash do you take any receipt?

Mr. SAUNDERS. Absolutely, yes; and my report shows the date I paid the money. No reports prior to mine ever showed that, or showed to whom the money was paid. At the request of my superiors I got the names of members of the various families and their agents, which the department never had had before. I did that at the request of the department of social welfare, or Mr. Wallace. I have done three or four hundred dollars' worth of work, or more, for \$150, and then kept a competent stenographer at work on it for weeks.

The CHAIRMAN. Now that you have that roll and preliminary work done, it won't cost you so much in the years to come to take care of it?

Mr. SAUNDERS. No; it won't cost so much. I haven't them all paid off yet. I have several to pay yet, and there will be a good many that never will call for their annuity money, but my account is separate from my personal account.

The CHAIRMAN. It should be, of course.

Mr. SAUNDERS. And I keep a record of the date and the person to whom that money is paid. That was never done before.

Mr. GRORUD. Have you any reason to believe that there was a lot of money never paid over to the Indians?

Mr. SAUNDERS. I am positive.

Mr. GRORUD. How much does it cost you to hold this exalted position of yours?

Mr. SAUNDERS. Three or four hundred dollars. Of course, I have been occupying the office since March in order to do the work I am required to do, so you can see I am not a charitable institution, but I do a lot of charity.

Senator WHEELER. Doesn't it bring in a good deal of business?

Mr. SAUNDERS. I maintain a branch office at Fort Covington, and there I get work outside of the Indian business. Frequently I am asked to give advice on Indian cases. The chiefs sit as a court, they take evidence, and they ask my advice as to what their decisions should be. Their titles in regard to land are sometimes so complicated that they are really good cases to go into court with. But they have no way of enforcing their decisions.

The CHAIRMAN. How do you determine who is eligible for per capita payment outside the reservation?

Mr. SAUNDERS. The chiefs tell me if they are still eligible.

The CHAIRMAN. Apparently the chiefs have no roll of their people here.

Mr. SAUNDERS. My roll is made up, in the first place, by the clerk of the tribe, and is O. K'd by the tribe.

The CHAIRMAN. Do you have a roll of all of your members, children and all?

Chief LAUGHING. I have a roll; yes.

The CHAIRMAN. I didn't understand it. Is there any further statement you care to make?

Mr. GRORUD. Have you had much complaint as to some of these annuities not having been paid to the Indians?

Mr. SAUNDERS. I have had various complaints.

Mr. GRORUD. The Indians come to you and tell you they haven't been paid?

Mr. SAUNDERS. Yes, sir; and I have every confidence that probably every one of them is correct.

The CHAIRMAN. Does that complaint come to you from Indians living here on the reservation?

Mr. SAUNDERS. It comes from the annuitants.

The CHAIRMAN. From the annuitants. Why weren't they paid the year before?

Mr. SAUNDERS. A good many of them live in Philadelphia, some in Syracuse, some in Buffalo.

Senator WHEELER. Now, as to these payments, why don't you pay by check? Take the roll you have and draw a \$1.35 check.

Mr. SAUNDERS. Because my predecessors hadn't done that and because they said the Indians preferred to have the money.

The CHAIRMAN. The canceled check would be your receipt then?

Mr. SAUNDERS. Yes; of course, it would. It was a very bad custom, in my opinion. I had almost doubled my work by following my predecessor's example. This \$1.35 would be split up, 50 cents to go toward the cemetery fund and then 85 cents either to go to the annuitant or to the merchant on debt.

Senator WHEELER. If you had just mailed out a check to the Indians, they could get the check cashed whenever they wanted it, and the record would be clear.

Mr. SAUNDERS. Yes, sir. But, you see, on the order the Indian presented to me I would split the annuity up twice or three times.

Senator WHEELER. Yes; and that makes a lot of bookkeeping.

Mr. SAUNDERS. Yes, sir. I have done \$450 worth of work for \$150.

The CHAIRMAN. Very well; thank you, Mr. Saunders.

STATEMENT OF RICHARD W. WALLACE, ASSISTANT DIRECTOR, DEPARTMENT OF SOCIAL WELFARE OF THE STATE OF NEW YORK

The CHAIRMAN. Please state your name for the record.

Mr. WALLACE. Richard W. Wallace.

The CHAIRMAN. And your official position.

Mr. WALLACE. Assistant director, Department of Social Welfare of the State of New York.

When Mr. Saunders was on the stand here earlier this forenoon, I think Senator Wheeler got the impression that he had been on this work a year and a half. I think Mr. Saunders corrected that. He began last April, and the impression that he gave, unintentionally, of course, was that our department was not represented on the reservation here to any extent. Mr. Saunders was appointed last

April as attorney for the St. Regis Indians here. His work has, I think, undoubtedly been increased because of what seems to have been the method of procedure in the past, and I think his first year's experience has been the cause of his learning a few things. There was a conference which I arranged with him and the chiefs and others about a month ago at Fort Covington, at which I told them that this splitting up of the annuity, an amount representing about \$1.35 for each annuitant, was not a part of his business at all; and I think that if the members of the tribe here will understand that it will be better all the way around. That annuity should be paid direct, and the suggestion which Senator Wheeler made a moment ago of paying by check, I think will solve the whole situation.

As to the relations between the State department of social welfare and the Indians, for many years the department has given relief to the needy Indians. The problem of Indian affairs, so called—that is, relating to the appointment of an Indian attorney, the distribution of annuities, and other matters of that kind—was transferred to the State department of social welfare I think only two years ago. I am not sure of the exact date, but until very recently we have not had an agent that we could send around to visit the several agencies. This conference that we had a month ago was my first conference with any one since we took over the work. My other work didn't permit me to come up into this region earlier, but we have had relations with the St. Regis Indian Agency. Mr. John W. Bero, overseer in this town, has been our representative in questions of relief. We have had many communications with Doctor Blackett and with Miss Martin, the nurse here, who is, by the way, an agent of the State health department and not of our department; so you see there are several State departments that have to do with Indian affairs.

In this conference a month ago among the matters brought up was the condition of the roads, and we have taken that up with the State highway department, and I understand that it is the province of the State to keep these roads in condition.

The CHAIRMAN. On the reservation?

The WALLACE. On the reservation; yes, sir. And I think that will be taken care of, perhaps not during the winter, but during the spring. I am in hopes that it will.

If there is no other question, I don't want to take up too much of your time.

The CHAIRMAN. Thank you, Mr. Wallace.

STATEMENT OF ANNA B. MARTIN, SUPERVISING NURSE, ST. REGIS INDIAN RESERVATION, HOGANSBURG, N. Y.

The CHAIRMAN. Please state your name for the record.

Miss MARTIN. Anna B. Martin.

The CHAIRMAN. You are the resident nurse here at Hogansburg?

Miss MARTIN. Supervising nurse; yes, sir.

The CHAIRMAN. Yes; for the Indians?

Miss MARTIN. Yes, sir.

The CHAIRMAN. How long have you been here in that capacity?

Miss MARTIN. I came here in August, 1920.

The CHAIRMAN. You probably know the Indian situation pretty well, then, by this time. What would you say about the general health conditions of the Indian people here?

Miss MARTIN. I think they are fairly good and are improving all the time.

The CHAIRMAN. How do the health conditions here compare with those in other localities that you have worked in and around?

Miss MARTIN. I have had no experience in other places. This is my first experience as a Public Health nurse, except during the period of the epidemic of influenza.

The CHAIRMAN. From your experience here on this reservation, what would you say about the general health conditions of the Indians here, compared with the general health conditions among the white people around the State?

Miss MARTIN. The health conditions here are fairly good.

The CHAIRMAN. The doctor seemed to intimate that there was some chance for improvement in regard to the sanitary condition of the homes of the poorer people among the Indians.

Miss MARTIN. I think they have improved a whole lot in the past few years, and they are improving every year.

The CHAIRMAN. So you think there is still room for improvement?

Miss MARTIN. Yes, sir; but they are doing very well now.

The CHAIRMAN. Do you think there is need for a hospital here?

Miss MARTIN. I think the hospitals are near enough, at the present time. If they can make hospital arrangements outside I think that would be better for the time being.

The CHAIRMAN. Do you think this arrangement for having midwives in maternity cases is quite satisfactory?

Miss MARTIN. I think it is quite satisfactory; yes, sir.

The CHAIRMAN. And the assistance you can give in instructing the Indian mother in taking care of her baby is working out satisfactorily, too?

Miss MARTIN. Yes, of course. I think they are doing better every year.

The CHAIRMAN. You think there has been a marked improvement since you came here nine years ago?

Miss MARTIN. Yes, sir.

The CHAIRMAN. Has tuberculosis increased or decreased among the Indians during the period you have been here?

Miss MARTIN. I don't think it is increasing. Of course, there are quite a number of cases, quite a number of contacts. I think it is decreasing.

The CHAIRMAN. Have you ever held a clinic on the T. B. situation?

Miss MARTIN. Yes; we have about two every year.

The CHAIRMAN. Well, you would know from that whether they are increasing or not?

Miss MARTIN. Yes.

The CHAIRMAN. And you think they are decreasing?

Miss MARTIN. Yes, sir.

The CHAIRMAN. Have you any other statement you want to make to the committee?

Miss MARTIN. I think provision should be made for the giving of salvarsan toxin and autotoxin and the Wasserman test, as these advantages would aid us considerably in our progress here.

The CHAIRMAN. Do you make a report to the health department?

Miss MARTIN. Every week.

The CHAIRMAN. Do you make recommendations to them too, of the things you need?

Miss MARTIN. Well, I usually try to get what we need from the district or State health officer.

The CHAIRMAN. Have you any other statement to make?

Miss MARTIN. No, sir.

STATEMENT OF CHIEF POINT, CORNWALL ISLAND, ONTARIO, CANADA

The CHAIRMAN. Please give your full name.

Mr. POINT. Chief Point.

Mr. GRORUD. Do want an interpreter?

The CHAIRMAN. You talk English all right, don't you?

(No response.)

(Mrs. O. J. Kellogg volunteered to act as interpreter and the witness thereafter testified through Mrs. Kellogg, as follows:)

The CHAIRMAN. What is your full name?

Mrs. KELLOGG. Chief Point.

Senator WHEELER. Does he have a statement he wants to make us?

Mrs. KELLOGG. He wants to ask the committee, is there any chance for St. Regis Indians to be heard?

Senator WHEELER. That is what we thought we were doing—trying to hear them.

The CHAIRMAN. They will be given an opportunity to be heard.

Senator WHEELER. He is a Canadian Indian, isn't he?

Mrs. KELLOGG. He says he is a Canadian Indian; yes.

The CHAIRMAN. Where do you live?

Mrs. KELLOGG. Cornwall Island.

The CHAIRMAN. In Canada?

Mrs. KELLOGG. Yes.

Senator WHEELER. You tell him we are not hearing Canadian Indians; we are hearing American Indians.

Mrs. KELLOGG. He wants to know, have they no right to ask questions?

Senator WHEELER. This committee isn't interested in Canadian Indians. The Canadian committee takes care of the Canadian Indians. We haven't any right to go into Canadian Indian matters.

The CHAIRMAN. We have no authority to deal with the situation on the Canadian side, at all.

Mrs. KELLOGG. He wants to say, has he no right to ask certain questions, since he had nothing to say in the establishment of a false boundary line that has separated these two groups?

Senator WHEELER. No; we have no time to go into that.

Mrs. KELLOGG. That is what he wants to know, whether he has the right to ask certain questions.

The CHAIRMAN. He will have to take those matters up with the Indian department at Ottawa. The Canadian Indian department will give him information with regard to the situation on that side. They have a boundary commission on the Canadian side and the Indian department there can take it up with the boundary commission.

Senator WHEELER. We have nothing to do with that at all.

The CHAIRMAN. That will be all.

STATEMENT OF ALEX. PORKE, ST. REGIS, N. Y.

The CHAIRMAN. Your name is Alex Porke?

Mr. PORKE. Yes, sir.

The CHAIRMAN. Where do you live?

Mr. PORKE. St. Regis.

The CHAIRMAN. How long have you lived there?

Mr. PORKE. I live on the Canadian side. I have got some land on this side.

The CHAIRMAN. You have some land on the American side?

Mr. PORKE. Yes, sir.

The CHAIRMAN. How did you get the land on this side of the line?

Mr. PORKE. I bought it.

The CHAIRMAN. Who did you buy it from?

Mr. GRORUD. He is enrolled on this side.

The CHAIRMAN. You are enrolled on this side as one of the New York State Indians?

Mr. PORKE. Yes, sir.

The CHAIRMAN. Have you some statement that you want to make to the committee?

Mr. PORKE. Yes, sir.

(At this stage Mr. Moses White was sworn as interpreter, and the witness made the balance of his statement through Mr. White.)

Mr. WHITE. The statement he wants to make to the committee in regard to that is that he has been an American and been on the tribal roll although living in Canada. Through some difficulty with the chiefs they had trouble about buying two pieces of ground for burying purposes for the Catholic Church located on the Canadian side, and it appears that the chiefs purchased a piece of ground for that purpose. Some of them weren't satisfied, and he purchased another lot. Of course, the chiefs didn't like that, and through that he claims that his name was taken off the tribal roll about a year ago.

The CHAIRMAN. Ask him how he got on the roll on the American side, in the first place.

Mr. WHITE. He said he had been on the tribal roll ever since he was born. He said he doesn't remember which side of the line he was born on. His father was an American before him.

The CHAIRMAN. Explain to him that we have nothing to do with what the chiefs do in regard to their roll, nor with their dealings with the Canadians on the other side of the line. We haven't anything to do with that at all.

Mr. WHITE. He says that is all he wants to say.

STATEMENT OF PETER McDONALD

(Testifying through Interpreter Moses White.)

Mr. WHITE. According to Canadian law, the commissioner over there told us they go the way their father was. If he was an Indian, then you are an Indian. If your father was a Canadian Indian, then you are entitled to rights under the Canadian law. It appears that this fellow's father had a farm over on this side of the line here, and that he was enrolled on the Canadian side, but they were on the tribal roll drawing annuity money over on the Canadian side. Some several years ago it appears that there was an Indian by the name of Joe Monroe that had land over here on the American side. He was on the tribal roll and he desired to live over in Canada. So through some dicker with the chief here they took Joe Monroe off the roll and this fellow took up his rights over here. So Monroe is over on the Canadian side drawing annuity money and this man is over here. My understanding is that originally Joe Monroe was a Canadian, but he was on the tribal roll over here.

The CHAIRMAN. I don't think we have anything to do with that.

STATEMENT OF CHIEF LAUGHING—Resumed

Mr. LAUGHING. There are a lot of cases that come up before the chiefs in the way of disputes between the Indians, among them some land disputes, and when we do decide we have no way of enforcement. We would like to have some laws to enforce our decisions, because at present a lot of our people pay no attention to the decisions the chiefs make. So we want a law providing for enforcement.

Senator WHEELER. That is one of the false positions you take.

Mr. LAUGHING. Yes.

Senator WHEELER. On the one hand, you say that you don't want to vote, and that you don't want to have the State make any laws for you. And then you come to us and say, "We want you to pass a law that will enable us to enforce our orders." That is perfectly ridiculous. If you people would come out and take an interest in your Government and vote for your members of the legislature, the county authorities, and for the men that you send to Congress, then they would take more interest in your affairs up here in St. Regis. When the Congressman that you elect in your district up here knows that you Indians vote, when he goes down to Congress, he is going to listen to you; but if you don't vote, he is only human; he won't take any interest. You ought to get out and vote for your public officials—the county authorities, the sheriff, and so on. Whoever tells you Indians that you shouldn't vote is just keeping you from doing something which is for your own benefit. I haven't very much sympathy for you when you don't take enough interest to vote. You people up here are intelligent Indians. You are far ahead of the Indians in the West in education and civilization. You have had a lot of experience, and most of you are half white, or more. There is no reason in the world why you shouldn't take an interest in your Government up here. Now, the Indians out there on the reservations in the West—full-blooded Indians—take an interest in the county, State, and Government affairs, and they vote; and since they have

taken this interest they have been able to get better attention from Congress, better attention from the State legislatures, and better attention from the county authorities. In some instances the Indians out there control a whole county and they elect people to offices; but here you people don't take enough interest in your affairs to vote, when it would unquestionably be very much to your benefit to do so.

The CHAIRMAN. You have about a thousand votes here in this district?

Mr. LAUGHING. Yes, sir.

Mr. GRORUD. Chief, you are interested in the welfare of the Indians, aren't you?

Mr. LAUGHING. Yes.

Mr. GRORUD. And your purpose here to-day is to find some way to better the condition of the Indians?

Mr. LAUGHING. Yes.

Mr. GRORUD. And your purpose is to find some way of getting your decrees enforced on the reservation, or absorb yourselves into the citizenry of the State of New York; that is true, is it not?

Mr. LAUGHING. Yes.

Mr. GRORUD. You are interested in having your property rights adjusted so that your people may become a part of the State of New York?

Mr. LAUGHING. Well—

Mr. GRORUD (interposing). To have matters adjusted in order that the Indians may know where they are at?

Mr. LAUGHING. To have things readjusted. We have always had the idea that we are wards of the Federal Government.

The CHAIRMAN. Is there any further statement?

Mr. LAUGHING. Oh, I guess that is about all.

The CHAIRMAN. Is there any other Indian who lives on the reservation here, on the New York side of the reservation, that wants to make a statement to the committee?

Mr. LAUGHING. Suppose we vote, in what party shall we vote?

Senator WHEELER. Vote for whoever you think is the best man.

Mr. LAUGHING. Well, then, we would lose our own election then?

The CHAIRMAN. No, no, no; you would elect your own chiefs here, just the same.

Mr. LAUGHING. You would have to put that in black and white, then.

The CHAIRMAN. You write a letter to the Attorney General's office and ask his opinion on that, and he will put it in black and white for you.

Is there any other Indian here who wants to make a statement to the committee? You look like a good Indian. What is your name?

Mrs. BACK. Mrs. Sarah Back.

STATEMENT OF MRS. SARAH BACK, ST. REGIS, N. Y.

The CHAIRMAN. Where do you live?

Mrs. BACK. St. Regis.

The CHAIRMAN. What statement do you want to make to the committee?

Mrs. BACK. Why, I have some back annuities due me.

The CHAIRMAN. For how many years?

Mrs. BACK. Five.

The CHAIRMAN. How does it come that you didn't get your payment? Did you ever make a demand or request from the former representative for this annuity?

Mrs. BACK. I have been away so much. I was hardly ever here in August.

The CHAIRMAN. You were away on the day they make the payment.

Mrs. BACK. Yes, sir; so I am back that much. I have written to the agent, and I have got his statement and I have got his clerk's statement, and they don't agree.

Senator WHEELER. Well, you better get hold of Mr. Saunders here and tell him your story.

Mrs. BACK. He gave me one year's pay on that.

The CHAIRMAN. Of course; he is a new man.

Mrs. BACK. Well, Tom Bero isn't a new man.

Mr. WALLACE. The clerk.

The CHAIRMAN. Take it up with your tribal clerk and also with your attorney.

Mrs. BACK. When they default, what do you do?

Senator WHEELER. Well, if you haven't been paid, you are entitled to it, and you have got something coming.

The CHAIRMAN. You would have to prove that you had something coming, and it would probably cost you more to prove it than it is worth. It is only these little annuity payments?

Mrs. BACK. Yes, sir; that is all.

The CHAIRMAN. I would suggest that you take care of it in future years.

Mrs. BACK. I am going to take care of it.

The CHAIRMAN. It is unfortunate that there should be any loss in connection with these payments.

Mr. MANLEY. Chief Laughing says she has been placed on the pay roll, and she can demand pay now, and any question that comes up we will take care of all right.

Mr. SAUNDERS. Of course, our trouble is to know whether the report is correct or whether this woman is correct. I believe this woman is correct. I will look into it promptly.

Mr. MANLEY. I don't see how Mr. Saunders can pay back payments prior to his time.

The CHAIRMAN. He says he will look into it. Is there any one else who wants to be heard?

Mr. WHITE. Professor Martin is here, Mr. Chairman.

The CHAIRMAN. Very well, if Professor Martin wishes to make a statement we will hear him now.

STATEMENT OF PROF. EARL FLETCHER MARTIN, PRINCIPAL TEACHER ST. REGIS INDIAN RESERVATION SCHOOLS, HOGANSBURG, N. Y.

The CHAIRMAN. Please state your full name for the record.

Mr. MARTIN. Earl Fletcher Martin.

The CHAIRMAN. And your occupation.

Mr. MARTIN. Principal teacher St. Regis Indian Reservation.

The CHAIRMAN. How many teachers have you here on the reservation?

Mr. MARTIN. Eight on the reservation.

The CHAIRMAN. How many in this community?

Mr. MARTIN. Five, including myself.

The CHAIRMAN. How long have you been here?

Mr. MARTIN. I came here August 6, 1923, sir.

The CHAIRMAN. And you taught school before that?

Mr. MARTIN. Yes, sir.

The CHAIRMAN. What would you say in regard to this school as compared with other schools in which you have taught?

Mr. MARTIN. Well it would be pretty hard to make a comparison between them. The comparison would be like comparing day and night.

Senator WHEELER. What is that?

The CHAIRMAN. Explain that a little, if you will.

Mr. MARTIN. Well, when I first came here the children came to school or stayed at home, just as they pleased. Any condition like that interferes with the progress of the school. You could make no headway under that condition.

Senator WHEELER. But you don't have that condition to contend with now?

Mr. MARTIN. In 1926 we got the compulsory law and since that time the attendance has doubled.

The CHAIRMAN. Do you think the attendance is what it should be right now?

Mr. MARTIN. It is as good as we can make it, sir. We had in November if I remember rightly, 95.6 per cent of our children.

The CHAIRMAN. That is a pretty good percentage.

Mr. MARTIN. That is a pretty good percentage. It will probably be lower for December.

Senator WHEELER. How does the intelligence of the Indian children here compare with the children of other schools of the same grade?

Mr. MARTIN. It is difficult, gentlemen, to make a comparison when a child has not been in school regularly.

The CHAIRMAN. Well take those that have been in school regularly.

Mr. MARTIN. I would say it is about the same.

The CHAIRMAN. In other words, there is no reason why Indian children can't be educated the same as white children.

Mr. MARTIN. None at all.

Senator WHEELER. There are none of these Indians full-blooded Indians, they are all half or quarter bloods?

Mr. MARTIN. Yes.

The CHAIRMAN. Do you teach manual training?

Mr. MARTIN. I don't, sir.

The CHAIRMAN. Domestic science?

Mr. MARTIN. I don't, sir.

The CHAIRMAN. Do you think that would be a good thing?

Mr. MARTIN. I do.

The CHAIRMAN. Including music?

Mr. MARTIN. I do. If I could get funds and sufficient room and sufficient teachers I would recommend manual training, domestic

science, and music. These children are especially good in music. And the children are making good progress in the fundamentals—reading, writing, and arithmetic.

The CHAIRMAN. Have you made recommendations for funds?

Senator WHEELER. Have you made recommendations to the department down there?

Mr. MARTIN. Yes, sir; to my superior, Mr. Hague. If they give us \$10 for schools they have to take it from something else.

The CHAIRMAN. Have you any particular statement that you want to make to the committee?

Mr. MARTIN. No; I don't believe I would like to make any particular statement, because I have my superior here.

The CHAIRMAN. What would be your opinion in regard to a little higher education in the high-school work here?

Mr. MARTIN. We are trying to do that, and are exerting ourselves in that direction. I am still continuing my own education so that I can advance my schools and keep up.

The CHAIRMAN. You look after the Indian schools on this reservation?

Mr. MARTIN. Four districts. Then I have one building in Hogsburg. That makes five separate buildings to look after.

The CHAIRMAN. I think, from the information you have given us, that you are doing very well under the circumstances, and we appreciate your coming down here. We wanted to get your opinion on a few of these questions. That will be all if you have no further statement you wish to add. Thank you.

The CHAIRMAN. Is there anyone else that wants to be heard on this Indian question?

STATEMENT OF MOSE WHITE—Resumed

Mr. WHITE. Since we are talking here about various things in regard to the Indians, and we seem to want to do some good, and have representatives here to-day from both the Federal Government and the State of New York, I think it is opportune for me to say a word on behalf of the farmers. We have talked about good schools, good roads, good health, and we have talked a little about something to drink. Let us see if we can not help the farmers some. If there is any way in the Federal Government or State government to find some loose money it would go a long way on the St. Regis Reservation in helping to dig some badly needed ditches on the farms here.

The CHAIRMAN. Of course, the State government undoubtedly has a department that looks after these things, and the Federal Indian Bureau, as I understand, never has taken any action one way or the other in regard to these New York Indians.

Mr. WHITE. Suppose we ask the State government and the Federal Government, through you Senators, to try to help us out. These ditches are needed to help the farmers, and the need is very, very urgent.

Mr. GRORUD. Are the ditches needed for the purpose of drainage?

Mr. WHITE. Yes; for drainage on some improved farms. We are all hard workers and are doing our utmost to develop these farms,

and whatever assistance you gentlemen will be instrumental in giving us will be appreciated by the Indian farmers and others.

Mr. GRORUD. Just drainage?

Mr. WHITE. Just drainage.

Mr. GRORUD. Just one other matter, Mr. White. With reference to the law enforcement in the matter of crimes committed on the Indian reservation, do the Indians generally submit to the State authorities?

Mr. WHITE. The Federal authorities. Another thing, there is no trouble on that score. I think the Indians here are pretty good.

The CHAIRMAN. If there is no one else who wants to be heard, the hearing will come to a close. We appreciate the cooperation of those who came in and testified, and those who took the interest to come here.

STATEMENT OF MRS. L. C. KELLOGG

Mrs. KELLOGG. Mr. Chairman, I just want to say a word of protest on behalf of the poor people who have been denied the privilege of being heard by this committee to-day. We are so intermixed with their affairs, on one side or the other of the boundary line, that I feel it is an injustice to deny them the opportunity to be heard, and I make this protest on their behalf. I think they have the right to send to Washington for the information they wanted on the matters they desired to ask about here to-day.

Senator WHEELER. Are there any American Indians here who want to be heard?

Mrs. WHITE. I think, Senator, the party she is speaking of is the party that came up here a while ago—from Canada. I think the majority of our American Indians have gotten up and spoken their little piece, and we don't want to get into any heated argument here.

Mrs. KELLOGG. I dispute that.

Senator WHEELER. Are there any American Indians here who want to be heard? If there are we will be glad to hear them, but we are not here to hear Canadian Indians.

Mrs. WHITE. This is Silas Gray [indicating]. He is an American Indian, but I think he resides on the Canadian side. He wants to know why he has been taken off the tribal roll.

Chief LAUGHING. This case is identical with that of Joe Dore—a case of meddling with the chief's business. To make the story short, I just took him right off the list.

Senator WHEELER. I don't see by what authority you took him off the list because he was meddling with the chief's business.

The CHAIRMAN. I want to say that if there is any Indian here who hasn't been heard and wants to send in a written statement to the committee at Washington, we will be glad to receive the statement. It will be referred to the committee, and if we think it advisable we will put it in the record.

The hearing will now stand adjourned.

(Whereupon, at 3.30 o'clock p. m., the subcommittee adjourned to meet at the call of the chairman.)

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