

**THE
EVERETT
REPORT**

This report is an exact copy of the original manuscript submitted by Assemblyman Edward A. Everett, Chairman of the Indian Commission, to the New York State Legislature in 1922. The original report was rejected by the Legislature at that time and the report had almost completely vanished. The late Mrs. L.G. Stillman, clerk and stenographer to the Commission, is to be thanked for preserving the only remaining record of that ill-fated Commission.

Through the efforts of all the Indian communities this report was retyped and duplicated for their use. Any efforts to implement the findings of this report would have to emanate from the Indian communities.

The Everett Report was released as a result of the New York State Legislature attempting in 1971 to transfer a parcel of state land which may be part of the Akwesasne Mohawk Reservation to the town of Fort Covington. The efforts of Chief Lawrence Lazore and Assemblyman K. Daniel Haley among others, were instrumental in negotiating for the release of this document.

To Mrs. Helen Upton, who was entrusted with this report after the death of Mrs. Stillman, and who made the ultimate decision to release this document to us, we say "NIAWEN!"

Philip H. Tarbell
Specialist in Indian Culture
N.Y.S. Education Department

"The Everett Report" on the New York Indians is herewith transmitted to the Department of Justice, and has for the first time since its dramatic rejection by the New York State Legislature, been made available for official files, by reason of the courtesy and cooperation of Mrs. L.G. Stillman, Clerk and Stenographer to the Committee who possesses, perhaps, the only copy in existence.

A series of State and Federal decisions, and notably Judge Ray's opinion (U.S. vs. Boylan) made New York officials conscious of the possibility that their administration to and the exploitation of, the New York Indians might be without legal justification and an intrusion upon an exclusive right and obligation of the Federal Government.

The New York State Indian Commission, created May 12th, 1919, for the purpose of solving the "New York Indian Problem", held its organization meeting during July, 1919, and elected E.A. Everett, chairman, and A.C. Parker, secretary.

A meeting was held in New York City which resulted in a general discussion of what should be done by the Commission.

On July 27th, 1920, a joint session of the State and National Indian Commissions was held at Saratoga, New York. Along with other things, it was argued that the proper method to settle the "Indian Problem" was to have the Supreme Court pass on the matter in a direct action, and upon having

the question adjudicated, then and in the event the Federal Government had the exclusive jurisdiction of the Indians, to Legislate control of New York Indian affairs to the State of New York.

Whether or not growing out of this suggestion, ——— Saywer of New York, sought to carry into effect the simple solution of "The New York Indian Problem" by introducing H.R. 5542³, to confer jurisdiction on the State of New York. Again in 1930 Congressman Snell of New York introduced a similar resolution (H.R. 9720: 71st Congress, 2nd Session). Both the State and Federal governments at these times surely indorsed the bills, but even with such approval, they never became laws. In the latter case, particularly, the bill was defeated by reason of the strong opposition of the Indians themselves.

There can be little question as to whether the Indians are satisfied with administration of Indian affairs by the State of New York. The minutes taken on the various Indian reservations clearly show that the Indians insist on Federal and not State supervision, notwithstanding the supposed generosity of the State in dealing with them.

The "Everett Report" is the only report that has come to my attention which has made any particular effort to encourage and secure a free and untrammelled expression of opinion by the Indians themselves.

The Commission visited the various reservations of the New York Indians and the report contains much valuable first hand information.

It was the original purpose of the Commission to return to the various reservations and complete their investigation, but a shortage of funds made this impossible. It is to be assumed that had the Commission returned to the various reservations that a great deal more valuable information could have been obtained. In lieu of this, however, the Commission invited Indian representatives to come to Albany for a meeting which was held in February of 1922. An unsuccessful effort was made by the Chairman to have the expenses of these Indian representatives paid by the State.

On April 27th, 1922, the report was tendered to the Presiding officer of the Assembly, in accordance with the Act, as amended, creating the Commission. The report was signed only by the Chairman, who had requested members not agreeing with his "conclusions" to prepare, for submission, individual reports. The report was rejected by the Assembly, and the most obvious reason that suggests itself for such refusal to accept a report which the State had spent over \$10,000 in preparing, is that it was not a justification of New York's supervision of Indian affairs.

Chairman Everett's conclusions questions the right of either the State or Federal government to regulate the Indians in New York without their consent, and impliedly holds all State dealings with the Indians to be illegal which are not directly sanctioned by the Federal Government.

However much the conclusions of the Chairman may be questioned, there can be little doubt that he was honest and sincere in his effort to get at the very bottom of the New

York Indian situation. He was not out to gather facts to prove a given contention, which is too often the purpose of such investigations, but was determined to find out what the status of the New York Indians were in relation to the State and Federal governments.

This report does not present the results of the months of painstaking original research which was carried on, so that a reader of the report is not given an opportunity to draw a conclusion on the same facts that was within the knowledge of the Chairman and upon which he based his conclusions.

Chairman Everett was by far the most active member of the commission. Some of the members were in conflict with the Chairman towards the end of the investigation, and some took no interest whatever.

April 12, 1920, of the original appropriation of \$3,500 for expenses, an unused balance of \$2,258.91 was reappropriated. May 10, 1920, chapter 654 of the laws of that year provided for an additional appropriation during that year for the use of the Commission. May 4, 1921, chapter 544 of the laws of that year amended the original bill by providing for an extension of time to submit this report and a further appropriation of \$1500.

May 24th, 1923, and after the rejection of the "Everett Report", chapter 690 of the laws of that year was passed, providing for the creation of a commission of

five to continue the investigation of the Indian Problem. Chapter 590 of the laws of 1919, creating the first Indian Commission, was repealed and provision was made for the abolition of the previous Indian Commission upon appointment of the members of the Second Commission by the Governor.

A careful search of the Governor's papers does not show any appointments being made to the second Commission. The unused appropriation for the Commission was reappropriated up to and including 1925. It is to be noted that Chairman Everett was not returned to the Assembly and died shortly afterwards. Whether this fact has any relation to the failure to organize the Second Commission to supersede the previous Commission would be hard to determine.

R E P O R T
of
NEW YORK STATE INDIAN COMMISSION
TO
INVESTIGATE
THE STATUS OF THE AMERICAN INDIAN
RESIDING IN
the
STATE OF NEW YORK
TRANSMITTED TO THE LEGISLATURE
March 17, 1922

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REPORT OF THE NEW YORK STATE INDIAN COMMISSION

March 17, 1922

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By an Act of the Legislature of 1919, known as the Machold bill, and later as Chapter 590 of the Laws of New York, a commission was created known as the New York State Indian Commission whose duty it was to examine into the history, the affairs and transactions had by the people of the state of New York with the Indian tribes resident in the state of New York

and to report to the legislature the status of the American Indian residing in said state of New York. The bill creating the commission provided the manner in which the individuals to be named as members should be selected and appropriated the sum of thirty-five hundred dollars, or so much as might be necessary for the payment of the expenses of said commissioners. The bill provided that no commissioner should receive a salary but should receive the actual and necessary expenses when working upon the commission and that the same should be paid out of the treasury on the warrant of the comptroller upon the certificate of the chairman of such commission.

By the provisions of the bill, the Attorney-General was made a member; the Indians were to have one member, the Health Department, the Charities Depart-

ment and the Education Department were each to have a member and the later four persons were to be appointed by the Governor; the Temporary President of the Senate was a member and he appointed two members from the Senate; the Speaker of the Assembly also was a member and he appointed four members from the Assembly. This made thirteen persons constituting the personnel of the Commission.

The conditions of the bill, so far as the naming of the members of the commission, were complied with and the following individuals were named:

HON. CHARLES D. NEWTON, Attorney-General
HON. HENRY J. WALTERS, Temporary President of the Senate
HON. JAMES W. YELVERTON, Member of the Senate
HON. LORING M. BLACK, Jr. Member of the Senate
HON. THADDEUS C. SWEET, Speaker of the Assembly
HON. CHARLES D. DONOHUE, Minority Leader of the Assembly
HON. DE HART H. AMES, Member of the Assembly
HON. PETER MC ARDLE, Member of the Assembly
HON. E.A. EVERETT, Member of the Assembly
Dr. R. W. Hill, Member from the Charities Department.
DR. MATTHIAS NICOLL, MEMBER OF THE Health Department.
Mr. A. C. PARKER, Member of the Education Department.
MR. DAVID R. HILL, Representing the Indians.

The members of the commission were duly notified by the Speaker of the Assembly and attended a meeting at Albany for the purpose of organization. At such meeting, the Hon. Edward A. Everett was chosen chairman of the commission and Mr. A.C. Parker, Secretary.

The first meeting of the commission was held in New York City at the Murray Hill Hotel on December

3rd, 1919 at 10 A.M. and at this time ten members of the commission were present. Then on December 5, 1919 a meeting was held at Washington with the Federal authorities when a general discussion of the Indian problem was entered into.

The commission received notice that the National Indian Commission would be in Albany on July 27, 1920, and a meeting was arranged for that date to be held at the Capitol. But, owing to the fact that several of the New York State Commission members were attending the Republican Convention at Saratoga, the meeting was adjourned to the United States hotel at Saratoga. At this meeting five members of the Federal Commission and seven members of the State Commission were present, and the minutes of the Meeting is attached as Exhibit A.

In order that this report may carry the information upon which and by which the determination of the status is arrived at, we submit the opinion of Chief Justice Marshall of the United States Supreme Court in _____, the decision of which and the principles discussed by the judge are of great importance in making _____ the legal opinion of this commission. Reference in _____ by the opinion of this commission. Reference is _____ to the opinion of Judge Ray as reported in _____ Reporter 859, p. 468 in 1919 and to Judge Manton found in Federal Reporter 265, page 165 in 1920 and

to the Extra Census Bulletin Indians, by Thomas Donaldson,
page 4 paragraph 2 "The conclusion is irresistible that the Six
Nations are nations by treaty and law etc."

At the time of the adjournment of the meeting held at Saratoga,
it was deemed wise and considered necessary to visit the several
reservations of the state for the purpose of making the Indians
acquainted with the object of the Commission and for the further
purpose of securing from the different tribes, thru their chiefs
and councilmen as much information relative to the history of the
Indians in the state of New York, dating back to the discovery of
this country by the white man, and for that reason the commission
proceeded on the 16th day of August, 1920 to visit the several re-
servations of the state. This was duly accomplished, and meetings
held at the following reservations in the state of New York:

Onondaga Reservation, Onondaga Tribe, Aug. 16, 1920
Onondaga Reservation, Oneida Tribe, Aug. 17, 1920
Tonawanda Reservation, Tonawanda Band of Senecas,
August 16, 1920
Tuscarora Reservation, Tuscarora Tribe, Aug. 19, 1920
Cattaraugus Reservation, Seneca Tribe, Aug. 23, 1920
Cattaraugus Reservation, Cayuga Tribe, Aug. 24, 1920
Alleghany Reservation, Seneca Tribe, Aug. 26, 1920

— And the Minutes of the ~~meeting~~ are attached

— While the commission was at Buffalo, New York, and at
and facts that were developed
on the reservations, in the western part of the

state, and due to the fact that it was reported that the Six Nations of Canada, who were formerly residents and occupants of the state of New York, it was deemed best to hold a meeting at their reservation in Canada. A somewhat informal meeting was held August 29, 1920 at Brantfort, Ontario, Canada at the home of Chief William Smith, Sr., Hagersville and the record of the meeting is attached as Exhibit "C".

It is hoped by the chairman that the Legislature will appreciate gigantic task required by it concerning the determination of the status of the Indians residing in the state of New York and we wish to impress the honored gentlemen and the people of the state with the fact that determining the status of the Indian makes it necessary to inquire into the transactions held by the white man with the Indians, dating from the first settlements in this country and continuing to the present date.

The first thing to be determined is the question as to whether the Indians of this continent were in possession of this country and whether they sustained the governmental right to control the territory occupied by them at the time of their discovery by the white man. And the further question as to whether any part of this continent was unoccupied by the Indians so that its discovery could, under the rules and regulations of the Law

of Right by Discovery, be taken by the discoverers. This determination is necessary in order to legally and properly arrive at a conclusion as to what the legal status of the Indian is at the present day, taking into account the territory he occupied when the white man came here, the territory he occupies at the present time and the examining the facts as to how and by what means and for what consideration he was dispossessed of that territory which comprised this continent and especially that lying within the boundaries of the state of New York.

This commission has found it necessary to go beyond the boundaries of the state of New York in examining the historical events as they relate directly to matters of vital interest in considering the status of this state.

We, however, have confined ourselves in this research to New York state in the final determination of the status of the Indians resident in this said state.

We deemed it unnecessary to make a part of this report the Laws and Treaties had between the Indians and the United States government or the Indians with the State government and simply draw our conclusions in our final findings from the facts gathered from such laws

and treaties as are parts of records held by the National and State Government.

We would further say that we have examined, in detail, the reports of different commissions that have been authorized heretofore to determine the relation of the Indians of this state and of the nation to the white man and advise that the reports of such commissions have seemed to fail in their determinations to touch the matters that would have a tendency to clear up this very complex entanglement.

Marshalling all the facts which the commission has been able to secure and judging such facts from the findings and decisions of both federal and state courts, your chairman arrives at the following conclusions:

That the Indians of North America were the legal possessors of the soil at the time of the discovery of this continent by Columbus in 1492.

That they maintained a regular form of government which was recognized by the several countries who visited this continent shortly after its discovery.

That at that time, the Indians on this continent were sufficiently able to maintain themselves against any foreign power that visited this continent.

That all foreign powers who visited this continent has in view the purpose of establishing colonies and

to engage in trade and traffic with the Indians and were received by the Indians in much the same manner as white men held intercourse with white men.

That no attempt, at that time, was made nor claim put forward to the effect that treaties need not be made with the Indians on account of the fact that they were not the legal and proper possessors of the soil. Nor would treaties have been made had the Indians been conquered and that by consummating treaties, we have recognized them as a nation.

The Commission is aware of the fact that several of the European Nations attempted to establish colonies of their own people in certain localities of this continent and that by reason of their promises and the benefits that trade and traffic was to the Indian, that the Indians surrendered territory to such white people who established colonies and that such territory was released to the white man for what seemed to the Indian a sufficient consideration.

It is expected that when the European nations came to this continent with the desire of effecting colonies that the same jealousies were brought that existed in Europe between such countries and that therefore these jealousies would be matters of contention. We, therefore, had the French, English, Dutch or Spanish

fighting among themselves each seeking to acquire an advantage on this continent and all soliciting territory from the Indians and also the cooperation of the Indian to maintain itself.

It is true that the Indians practised a different policy in the cultivation and handling of this continent than was adopted by the white man.

We are forcibly impressed by a careful study of the character of the Indian with the fact that in his natural state he was an honest, conscientious, reliable human being; simple in his ways of living, moral in his intercourse with his people; ignorant of the practises of the white race and thereby easily persuaded to dispose of his natural rights, and advantages for a very small consideration.

This commission has found a careful study of the habits, customs and ideas of the Indian that in the sale of his property that he did not take into consideration the fact that the pieces of territory which he turned over to the white man would change its natural condition. The Indians idea of the value of the country being its ability to produce in its natural state a more sufficiency of game and fish than was necessary for his maintenance and he supposed that the white man would make the same use of the territory as he did and was therefore willing to part with sections of that territory as he

had such a great abundance of food and clothing procured direct from nature. It was therefore natural that a contention should arise when he discovered that the possession of this territory, by the white man, meant the extermination of everything that had heretofore supplied him with food, clothing and a livelihood. This attitude, however, cannot be taken as the result of extreme ignorance. The results of this misunderstanding of what was to be done with the territory cannot be attributed to a desire on the part of the Indian to plunder and murder, but rather it was a matter of retaliation on the part of the Indian when he saw his very life being taken from him by the white man's destruction of the game and forests.

This commission is much in earnest in its attempt to bring the minds of the Indian and white man together in the consummation of treaties, trades and contracts and has studied carefully the question as to the condition of mind of each of the parties taking into account the knowledge of the one as to what the consequences of the transaction would mean to the other and the inability of the other to such a realization because of the manner in which each had lived and the habits and manner of the conduct of trade in the one country as compared with the other.

It is a part of the conclusions of the commission that where a white man made a trade or contract with the Indian, knowing that the Indian was ignorant of the results of the treaties or contracts, that necessarily the minds of the contracting parties did not meet and that such conditions should be given careful consideration in this report.

It might be well to state, at this time, that the attitude of mind of the chairman of the commission, at least, (and he hopes it will be the prevailing opinion of the Commission), taking into account the status of the Indian as he relates to his country and the wealth he possessed at one time and the manner and means by which he was dispossessed of this country, that the Indian shall be treated, by this commission, applying the rules of justice and equity as we might ask him to do unto us were he in the position of power in which we - Mind ourselves. We especially call attention to the generosity of the Indian in his treatment of the white man when he had sufficient physical power to have annihilated and driven, from these shores, all of the white men who were residents here at the time when the Indian was supreme in power.

The commission is anxious to enlist a spirit of fairness and a decision prompted by justice that will

be as generous and fair in the treatment of the Indian in this respect and will partake of that spirit of loyalty exhibited by the United States when it assisted the humane countries of Europe in stopping the annihilation of people innocent of the commission of any crime for which the punishment arranged by the Germans could be warranted on account of any act committed by any of the countries against whom the Germans were waging a war. May we suggest that if it is worth twenty billion of dollars in the marshalling of four million of American boys who risked their lives to prevent an outrage against humanity and offered themselves as a sacrifice upon the altar of government and at the feet of justice, that that same spirit should be exhibited at this time in the determination of the question as to what the status of the American Indian is in the state of New York and the more and most important question - "What are we going to do about it?"

It may be feared that if this report is carried out, that individuals will be deprived of their property. I therefore wish to suggest that this case is one in which the United States government and the state of New York are the contending parties and that the encouragements and rights which the United States and the state of New York have offered to inhabitants, in the matter

of offering them land secured from the Indians and the title of which is now in jeopardy, should not be reflected upon those individuals to contest this matter but rather it is a matter for the government of the state and the United States to settle. The recompense coming to the Indian from the finding that the land still belongs to him should be taken care of by the government and not by a loss to the individuals of the state of New York or of the United States.

I am lead to make this suggestion and call the attention of the Legislature to the fact that these several parcels of land now in contention, were made available to the citizens of the state by reason of the laws that were enacted by the state or by the nation or were permitted to be taken possession of under the protection of either or both governments and that the Indians had time after time been advised, by Governor Clinton of New York and General Washington of the Confederacy and President Washington of the United States, that their land would be secure to them as long as water runs, and grass grows. Have we kept our agreement?

CONFERENCE OF NEW YORK STATE AND NATIONAL
INDIAN COMMISSIONS

held

July 27, 1920

SARATOGA, N. Y.

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Preliminary to a notice from the National Indian Commission, the chairman and secretary of the State Indian Commission, met in Albany for the purpose of making arrangements for a joint meeting with the State and National Commissions. The unofficial Republican convention being called for July 27, the same date for which a meeting was set by the National Indian Commission, it was deemed wise to arrange for an adjournment of that meeting to Saratoga if the same would be agreeable to the National Commission. Therefore, Mr. A.C. Parker, secretary of the State Indian Commission, of the State Indian Commission, was requested by the chairman Hon. E. A. Everett to make such arrangement and report to him at Saratoga. Arrangements were made and the Commissions met in joint session at the United State Hotel, July 27, 1920 at 11 A.M.

PRESENT:

Hon. E.A. Everett, Chairman of New York State Indian Commission, Presiding.
Hon. GEORGE E. VAUX, Chairman of Federal Indian Commission.

Hon. Frank Knox,	Member of Fed. Indian Commission.
Hon. Hugh A. Scott,	" " " " "
Hon. Daniel Smiley,	" " " " "
Hon. Malcolm McDowell, Sec.	" " " " "
Hon. E.A. Everett, Chairman of N.Y. State Indian Com.	
Hon. Loring F. Black, Member	" " " " "
Hon. Peter McArdle,	" " " " "
Hon. De Hart H. Ames,	" " " " "
Dr. R. W. Hill,	" " " " "
David R. Hill,	" " " " "
Dr. A.C. Parker, Secretary	" " " " "

WITNESSES PRESENT:

Dr. Earl Bates
Chief Jessie Lyon

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CHAIRMAN VAUX:

As to view of the United States Board on the New York situation, I don't think that our Board had any definite program in its mind as regards this morning's conference which we thought would be more on the order of a discussion around the table to see what we could contribute to the present situation. Of course, in a sense, if these Indians are not under Federal jurisdiction, our Board as a Federal Board would not have any direct connection with affairs here, except so far as we are interested in all Indian affairs. Of course, there is the connection of the old Indian treaties of the United States with Indians residing in the state of New York whereby and in accordance with such treaties as agent is maintained at Salamanca, whose duty it is to pay to the several Indian tribes affected by such

treaties, the commodities and money provided in such treaties. Therefore, a meeting of the National Commission with a Commission of the State of New York is very proper as the question of status which we are to settle concerns both the United States and the State of New York.

Unfortunately, two members of our Board, Dr. Eliot and Prof. Morehead, who have given a great deal of thought to this subject are unable to be present.

The question of the New York Indians is one that has been discussed frequently at Lake Mohonk Conferences to see if some of these matters could be solved. Everyone seems to get, usually, to the question what the one great point is--"Where does the jurisdiction lie?" I imagine that it is a great deal better to have that question decided, even tho decided wrong than have things continue as they are with the present uncertainty and nobody knowing where the responsibility lies. If I might make a suggestion, it would be, that if your Commission can arrive at a solution of that problem, you have gone a long way toward the settlement of the entire Indian question. I have a feeling that there might be an amicable suit to which the United States might also take part thereby settling this matter.

CHAIRMAN EVERETT:

Prior to the passage of the statute creating this Commission, a mortgage had been given by an Indian to a white man upon a piece of property located in Oneida. During the existence of this commission, this mortgage was foreclosed and the property sold, proceeding being had in the Supreme Court of the State of New York. At the conclusion of the foreclosure proceeding and after the sale and dispossession of the Indians from the property on the Oneida reservation, the dispossessed Indian commenced an action in the United States Circuit Court known as the BOYLSON vs MOYER case, in which he asked that the foreclosure proceedings be declared null and void upon the ground that the treaty creating the reservation provided that it should be under the jurisdiction of the United States Court. This case was tried in the Northern District of New York and judgment rendered holding that the contention of the Indian was good in that the State Court had no jurisdiction, declaring the proceedings null and void and entering a judgment reinstating the Indian in the possession of the property. An appeal was taken from this judgment to the U.S. Circuit Court of Appeals which upheld the decision of the U.S.

Trial Court.

Now, if this decision should stand it would be conclusive that the State Courts have no jurisdiction whatever in matter concerning the Indians. However, the problem as to any jurisdiction by either the United States or the State is a question that must be disposed of.

SECUTY PARKER"

This decision is a reiteration of the Kagama case (163 U.S. 504)

HON. E. A. EVERETT:

The Attorney General has requested me to get facts as to whether a treaty made in the State of New York was liability to the State when it came into existence in the United States or whether it was assumed by the United States at the consolidation of the Colonies. When we got these facts together, we were going to have a conference with the United States Attorney General; but this matter has been delayed on account of a change in the personnel of the Attorney General's office. The question of the status, as we view it, from the Commission is of considerable importance. The word status, as applied in the statute creating this commission, in my judgment directs us to report on all of the business relations of every kind, name and nature, which have occurred since the landing of the white man on this con-

continent. That necessarily requires an accurate knowledge of the transactions occurring between the Indians and the white man, and especially relates to the transactions in the state of New York. This, of course, has to do with the governmental affairs of the state during the period when it was a colony and also after it merged with the twelve other colonies into what has now become the United States of America. To further interpret the word status, as applied in the statute, it would mean a determination of a question of very intricate international relations, intricate in the extreme on account of the fact that the Indian has been granted the right, under treaties, to maintain a separate, distinct territory and government within the states which are a part of the United States. That privilege being an absolute right, it is a violation of the constitution of the United States. I will not extend the discussion concerning the application of the work status in this case further at this time as I only intend to outline to your Commission the nature of the investigation, which this Commission of which I am chairman, is obligated to perform. I therefore, trust that this brief outline will enable your Commission, with its national authority, to render to us such information and assistance as will be material to the settling of this most important and long delayed

question which reaches deeply into the foundation of the integrity of government and affects so vitally human beings who have long relied upon the justice and intelligence of a people with a reputation for being at the need of civilization in every comprehensive sense of the word as the people of the United States. In 1888 an attempt of this kind was made but it related more to the condition of the Indian as he was then, rather than as found when the white man came.

CHAIRMAN VAUX:

Hasn't the state of New York assumed control over these Indians?

CHAIRMAN EVERETT:

Yes, We have a long line of statutes in this state regarding this matter. But, what right has this state to legislate or regulate in a locality in this state that is distinct in its division as Canada? We don't attempt to control a St. Regis Indian just across the line on the Canadian side if he commits a crime: but in this state if an Indian commits a crime, on his reservation, and the United States Court assumes jurisdiction and in the trial of the case the question of jurisdiction is raised, in nearly every case the proceedings are stopped and in such cases the matter is never brought to trial again owing to the fact that the courts

seem unwilling to assume the responsibility of a decision.

SECRETARY MC DOWELL:

Down in Washington they wonder what the Commission is to do; whether they want the state of New York to have jurisdiction or not; whether New York wants the United States to assume complete control or whether the state wants to continue in this work or go further than the Indian Office, the place where everything concerning Indians will eventually come. I don't care whether it is a bill in the Senate or House, it will be referred to the Secretary of Interior and he in turn hands it to the Commissioner of Indian Affairs. I hear that they all keep away from the New York Indians because they don't want them. The present administration of Indian affairs is not popular with Congress and Congress will not give, they say, the Indian Bureau another Indian. The only intention that the United States has is to carry out the treaties which they hold with the Indians in the state of New York. Now, I talked with Judge Pollock, head of the Department of Interior, asking if Congress by act could make all Indians of New York citizens of the United States and he said "Yes". I asked "Can Congress designate to the state of New York any authority or jurisdiction they claim to have in the state of New York?" He replied he thought they could. The sole

question is "Does New York want to have the control of the Indian situation?" They say the only way that can be settled is that the United States Attorney General shall go before the United States Supreme Court (by Act of Congress) start a suit against New York state and bring up this matter. If the United States Court decides that the New York state Indians are Federal Indians then go to Congress again and have a bill passed to turn the United States Indians over to New York State as they want it. Now, Homer Snyder, a New York State man is on the Committee of Indian Affairs. He doesn't seem to know any more about the Indians than someothers. Well, no member from New York ever has seemed to know much and I may add some seemed indifferent.

CHAIRMAN EVERETT:

I will admit that. However, you will find a different condition on this Committee.

CHAIRMAN VAUX:

Do I understand that the Attorney General has given an opinion that no more money can be expended and also that the New York schools are closed?

CHAIRMAN EVERETT:

The Comptroller raised the question with the Legislature as to whether we had a right, on account of

the decision of the United States Circuit Court that the Indians were wards of the United States, to pay out any money under the Financial Legislative Act, which is to the effect that no money can be paid out by the State of New York excepting it be an obligation of the State. However, pending the decision of this Committee, the State is proceeding with its care of the Indians the same as it has in previous years. Even this year went further as I succeeded in securing an appropriation of \$100000 for agricultural purposes and \$100000 for the purchase and equipment of a building on the St. Regis reservation to be used as a school, organized with teachers to go as far as the completion of a High School education, also taking up domestic science and vocational work together with an agricultural course. This added expense was in accordance with the views of the Governor (Hon. Alfred Smith) as he was counsel prior to the introduction of the appropriation bill. In my judgment, the treatment of the Indian, has, as far as education is concerned, been a disgrace. At least this is the attitude of the chairman, and I believe the members also, to give the New York State Indians a proper, liberal and thorough opportunity to become good citizens to become just as good as any white man.

Dr. R. W. Hill:

The difficulty in the matter of education has been one of control of the Indian child. The State has for all of its white children a compulsory school law. The Indians have been unwilling to permit this to apply to Indian children and deny that the state troopers, who could be used to make them attend had any power. This has affected the schools to some extent. Of course, some of the teachers who have been sent have not always understood the necessity of giving the same attention to Indian children as they would to white children under their care. But, the purpose of the State is to give to every Indian child the same opportunity of education that a white child has. I have listened to the secretary's statement that the United States has the right and power-(nodding to an interruption of Secretary McDowell) Yes, I understand this is a very informal statement-to make citizens of the Indians and I regard this as exceedingly weightly. But, if it is true that Congress can make all the Indians citizens it would seem unnecessary to first start a suit in one of the courts to decide whether there is power in the state or federal authority. If Congress would take such an action and they become citizens, instantly, the laws would cover all such with the same responsibility as all other citizens.

SECRETARY MC DOWELL:

But, would they be citizens of the United States or New New York State?

CHAIRMAN EVERETT:

Answering the question and problem suggested by statements of Secretary McDowell and Dr. Hill, permit me to say that in the first place, I am of the opinion that Congress is without authority to force upon the Indians citizenship-second: that foreigner becomes a citizen of the United States under rules and regulations provided for in the naturalization laws of the United States and he gains a residence of a state under the laws provided by each state. I consider it unnecessary, at this time, to enter into an argument regarding the right and authority of the United States to force citizenship upon the Indians as that problem will come up later in the regular course of the inquiry of this Commission. The question of citizenship is foreign to the question of arriving at the status of the Indians in this state or in the United States.

Here occurred a discussion entered into by Maj. Knox, Senator Black, and Dr. Hill and some other members of the joint hearing in which the question of the right of the United States to take supervision of Indians residing in the state of California, some on reservations

and others not connected with reservations, some as citizens and some as not recognized as such. Members of the Conference furnished information to the effect that the United States did actually exercise jurisdiction over these Indians.

CHAIRMAN EVERETT:

Haven't we something to attend to in relation to the Indians other than attempting to convert him into a citizen? He is a human being and we have certain laws to which we adhere and in which we believe. We have established them as rules to control different nationalities of the world and can we make a different rule for the Indian? Don't we prescribe how a man shall become a citizen if he is an Italian or Russian? We have no compulsory law applying to any man of foreign birth as to becoming a citizen of the United States and the discussion just indulged in would indicate a disposition to frame a law compelling a man to become a citizen of the country in which he was born and to become a member of a nation that had divested him of the country of which they are now in possession. I trust that the gentlemen of the New York State Commission and of the National Commission will help to solve this problem without attempting to use, at any time, the strong arm or power or invoking the assistance of injustice. What we

want to do with the Indian shouldn't control what the law says we must do. They will change our laws if we do something in a case where we have no jurisdiction. For the United States to say that they will enact a law, creates in the Indian an idea that to enforce his rights to the country in which he was born, he must fight and when he does that, he severs any claim upon the country that he may have had previously. Danuel Webster and Judge Marshall's opinion either decided wrong by assuming what the Indian should be regardless of our law; or threw it into doubt by saying there may be a question there as to whether he was the owner of the country or of the hunting ground or an incidental occupant and therefore did not take the fee to the land. Can any man, in Court, say that the planting of a flag gives that country a legal right to the fee more so than to the man who was born on and occupied that land? Now, France planted a flag in the vicinity of New Orleans and laid claim to the country that was afterwards included in the Louisiana purchase. The example furnished by the Ogden Land Company is precisely similar to the claim of the Colony of Massachusetts to the right of a section of territory extending back from Massachusetts to the Pacific Ocean, taking in a section of about 6000000 acres of land in the State of New York. The Ogden Land Company, by a purchase

from the Colony of Massachusetts, attempted to acquire the right to the fee to this land that was located in the Colony of New York. No serious consideration has ever been given to the territory that extended from the western boundries of New York to the Pacific Ocean that was claimed by Massachusetts. Connecticut claimed a strip extending back to the Pacific Ocean which now only exists as a myth so far as the right to title is concerned and passes into history with no more legal status or authority than an empty claim or a dream would have. The solving of the problem of the status of the American Indian in the State of New York, if properly done, will settle the question of the ownership of what is now the United States at the time when the first white man landed here. It must necessarily settle what is known as the fee ownership to real estate. It must settle the question of the right of a Government to enforce taxation upon inhabitants of a country a right to enforce citizens of that country by draft or otherwise to furnish an army to defend that country. This peculiar authority, right and ownership is usually conveyed by the word fee. This authority and ownership must be considered by taking up the practise and accepted right and authority that has been used by all civilized countries in the acquiring of any territory. New territory has from time

immemorial been obtained by a nation in one or two ways- either by purchase or conquest. We, therefore, must go back and examine carefully the attitude maintained toward the North American Indian by the first white settlers, what their policy and practise was in securing title from the Indians. It is not necessary at this time to outline the policy of this Commission as to what principle it will adopt, suffice to say that it is the opinion of the chairman that the accepted and actual practise of the United States in acquiring territory should be used in determining what was done with the Indians and at the proper time, after having examined all of the records that make up the true history of what was done, have been examined and marshalled into the records of this Commission, we will then at an executive meeting of the Commission make known the decision that shall control the actions of the Commission and their report on this most important phase of the case. I would further state that the taking of statements from the records of Indian Commissions and Committees and the principles adopted in the control of the Indians by Indian Commissioners and administrators who have violated all of the laws of justice and the principles by which we have acquired territory in the United States would be a foolish waste of time and would lead to cross decision, changes of prin-

ciple and a general condition of chaos, which instead of solving this problem would throw us further into discord. It would make it impossible to reconcile our report with the rules and regulations adopted by the United States government in the acquiring of territory and would violate all of our laws of right and justice. We, therefore, should not be misled by the dishonest, wrong acts of a Department of Indian Affairs who only acted for a season.

CHAIRMAN VAUX:

Mr. Vaux told of certain facts relating to western tribes which he visited and studied. He traced their wanderings from a spot where they are supposed to have originated and found they were first known in the east (in the early 17th century) and that following out those impulses which seem to lead all aboriginal people to migrate they began to wander. Thru the Carolinas they went, thru Pennsylvania across the mountains and into Ohio, Mississippi and still further west. "I very seriously doubt," said he, whether as a moral or legal fact you can assert that a people wandering over a great stretch of territory have any legal right to actual ownership to that land.

GEN. H. A. SCOTT:

Well, where would you draw a line for their

right to ownership?

CHAIRMAN VAUX:

That is difficult to say. I don't know; but I don't believe that a user of that sort has a valid basis to procure legal title to land.

DR. R. W. HILL:

In addition to their wandering nature; I would say that the Indian was driven from his first known section by other Indians who forced them away; in fact, I believe their habit of wandering was due to the force of other Indians which kept them moving and moving. They could not possibly thru that wandering have acquired a title over all the country or of that in which they originally lived in part. Now, the Indian tribe that forced off another Indian tribe and thereby took possession of the land, what title did they get?

CHAIRMAN EVERETT:

Let me suggest that that phase of the case is decidedly irrelevant in that it relates to a question of title which a careful examination of what the courts have done should be your precedent. We are not interested in the solving of the problem of title held by different tribes of Indians, as the question is one of Indians against white men. The primary question being were the Indians in such possession of this country when the white

man came here that their occupancy entitled them to the fee of the country? The several tribes could have been at war with each other driving each other from location to location, leaving, however, the possession, occupancy and fee to the country in possession of the Indians all of the time.

MAJOR KNOX:

Would it then be proper to allot to the Indian land as we have done in the West?

DR. A. C. PARKER:

Most of the New York Indian tribes are corporations holding lands in common and each individual takes such a portion as he desires by occupying tribal domain, by purchase from other Indians and holders or by inheritance. As corporate owners they cannot be allotted.

MAJOR KNOX:

In that case if they were citizens of the United States they could buy the property themselves?

CHAIRMAN EVERETT:

My query is the question of the right of the United States to pass laws concerning another nation without the consent of the other nation.

DR. HILL:

What becomes of one nation inside of another?

MAJOR KNOX:

The constitution expressly states that no such

condition may exist.

CHAIRMAN EVERETT:

I have already referred to that fact; but will further call your attention to the fact that this was an act by the United States Congress and a violation by it of its constitution and not chargeable in any sense to the Indians. My commission, today, is to discover what has been done and tell what should be done in absolute justice. I believe that the Indian wants all phases of the case exposed and explained to him and then he will be satisfied with the decision. The spirit of the United States toward the world war would certainly exercise itself to see that justice is done to the Indian, absolute justice and what is best for the Indian. He must receive justice, he is entitled to that. Let the matter of Financial result drop where it will. I am discussing what the terms of the contract called for and I maintain that we are at cross purposes with the Indian. When his forces were greater than ours and he could have disposed of us, we treated him as an equal, then when we became the greater power, we treated him as a ward, foreigner or alien. We must not do that. We don't want to hand down to our children what our forefathers handed to us. This has gone far enough and we will have difficulty enough in settling now. I believe that the settlement of matters in New York State will be of substantial assistance in

settling all other states in the United States. Now, here is a decision that puts us in chaos-That the Indian is an alien: that he never disposed of his right of self government;- and yet is a ward of the United States. This is a decision of the Circuit Court of Appeals in the Matter of Boylson vs. Honyose. If I were a judge and drunk, I could excuse myself for rendering such a decision.

DE. BATES:

There seems to be some disposition on the part of the Chairman of the Federal Board to compare the New York Indians with the western tribes. It is true that the condition of the Indian in the west is much different than in New York state, in fact it is worse. The idea is that you really saw and studied some Indians who had left their own country or land originally inhabited by them on a promise of land given by the white man and wandered farther and farther west when the promise was not fulfilled.

CHAIRMAN VAUS:

I was not referring to that as a problem of New York State but to show the way in which, in earliest times of which we have record, there was a surging of Indians from one part of the country to another and thus they laid claim to all land where they touched.

DR. BATES:

I believe that your opinion is wrong.

CHAIRMAN EVERETT:

I tell you I feel the responsibility of an attempt to get at the foundation of this difficult matter.

CHAIRMAN VAUX:

We are all after that. Let me suggest, Mr. Smiley is with us and has given much thought to these matters and I wonder whether he would contribute something to this discussion.

HONORABLE DANIEL SMILEY:

I have at different times had different opinions about the situation as all the time new conditions arise, and today we think differently than we did twenty-five or thirty years ago. This one question that has been reached, If we ought to make all Indians citizens of the United States?- that is worth considering. There is one feature that occurs to me, that not all Indians would desire to become citizens and whether the government could compel it if they do not so desire. I feel there are quite a number who would not care to become citizens. The situation of the New York Indian is quite different from any other. They have title to lands and treaties going back beyond the Federal government. Their rights came originally from Massachusetts, when it claimed territory now a part of New York State and some of which was passed over to New York State and some to the Ogden

Land Company. But, it all now hinges on what can be done on the question whether the Federal Government acquired the sovereignty over the Indians at the time of the Union of the Colonies into the United States of America. That is a legal question that would have to be decided legally. If the United States did acquire the sovereignty, then they are government Indians and if not then they are State Indians. That, I should think would be one of the first things to determine, just what happened at that time when the states became a national government, whether they surrendered the government of the Indians to the Federal Government.

DR. HILL:

The Supreme Court has decided that the State of New York never surrendered any of its authority.

GEN SCOTT:

I have here a citation made by Mr. Parker in a paper read before the State Archeological Society.

"The United States acknowledges the lands reserved to the Oneida, Onondaga and Cayuga nations in their respective treaties with the State of New York, and called their reservations to be their property; and the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof; but the said reservations shall be theirs until they choose to sell the same to the people of the United States, who have the right to purchase."

It might be that the power of the United States is supreme.

That is one question; but the question with me is the interpretation of the word "disturb them". I may have the legal right to do a thing; but whether I possess the moral right to do it is another matter.

CHAIRMAN EVERETT:

Here is a case that cannot be disposed of by agreement or contract. If you assume the obligation of guardian you cannot, in an indifferent manner, dispose of it to somebody else. The Court does not allow you to pass it on without the consent of the Court. Now, if they acquired Indian property as a colony and merged into the United States without the consent of the Indians, thru the Court (which would be in direct defiance of our court rulings) the regular legislative rule would apply. So then, necessary to the case is the fundamental of what was done then. I succeeded in getting hold of an old book covering Indian treaties and containing an opinion of Judge Marshall's and in it is a good rule for us to follow as it follows the laws which have been established.

A copy of Judge Marshall's opinion is attached and marked as schedule "A"

CHAIRMAN VAUX:

The fundamental of this question is to get back to whether the whole of the State of New York belongs to

these Indians and if they should have compensation for what they have lost.

CHAIRMAN EVERETT:

My opinion is to go back to the original landing of the white man in this state and continent and adjust this affair as if all the Indians who were here at that time were now here and the white men in the same proportion and determine what is the policy today and what has been the National policy of this Government. We could have taken Louisiana from France but we bought it. We took from Great Britain this territory and could also have taken Canada and the financial result would have been greater than what we took from the Indian.

MAJOR KNOX:

The Constitution of the United States excludes the right of an alien government to exist within the United States.

CHAIRMAN EVERETT:

Yet, the Circuit Court decision states they are aliens who have never given up their right to self government. In the Phillipines we left the people who were in possession of the territory and in California there still exists fifty miles square of territory with which we have never interfered. Here we established the Indian ourselves in a territory and permitted him to

hold his own courts and originally did not interfere with him and had no authority nor power over him because we were the smaller number and less powerful element and in this we violated the constitution.

DR. HILL:

I heard an Iroquois leader state that the Indians wanted back the property of which they had been robbed by the white man. He said there was no law which should deprive them of this property which was once theirs and the fundamental title would still be theirs if legally recognized.

CHAIRMAN VAUX:

If that is the case, the State of New York and the United States will have exceeding difficulty in unscrambling the eggs. It cannot be done. I look upon this as something outside of the practical question which must be settled by the commission.

DR. HILL:

I agree with the chairman that from a point of humanity, we want to do the very best for the Indians and when we have done the best for the Indian of today, I think we have fully justified the existence of the Commission and exhausted its power.

Here Dr. Earl Bates made some remarks regarding his opinion from personal association among the Indians.

Referring to remarks by Dr. Hill regarding an Iroquois leader's speech, he said he thought that Dr. Hill heard a man speak who was no representative of the Indians as he felt that the Indians had no disposition to possess the United States nor the State of New York; but simply wanted the land they now lived on as they fear that somebody will grab this up, this little they have left to live on. "I think, said he, they are satisfied with what they now have and only ask an opportunity for their children. You must start with your legal question in order to give them this."

CHAIRMAN EVERETT:

The balancing of the books is not in my mind altho I say they should be balanced and am not worrying what the result will be. As a humane proposition and in justice to the principle advocated by the United States, you cannot fail to say to the Indian you cannot balance the books. You cannot defend the crime because you have taken the money. We entangled them ourselves. My forefathers and yours did this and left it for you and me and we must do it or leave it to our children. The Indians all the time complain that we are waiting for something. We did not hesitate at expense or the sacrifice of human life when humanity issued the call for us to enter the world war, we sent two million

across the ocean and had two million more ready to go. We spent \$20000000000.00 and loaned several billion to foreign countries who were in need of funds to prosecute this terrible struggle. We must remember that even the Indians have the natural instinct of humanity and joined us in our effort to stop the march of injustice and outrage and contributed proportionately a larger number of fighting men than any nation. They did this when there must have been in their minds the injustice of conquest that had deprived them of their home, country and property. I am firmly of the belief that the spirit of justice awakened by this terrible world war will last until the Indian problem has been settled in justice to the Indians and in such a way that every white man living in the United States can look the Indian in the eye and declare that he is really and truly the brother of the white man, I am not letting any difficulties interfere with the attempt to settle this very serious problem. I cannot blame the Indian for feeling aggrieved at the manner in which he has been treated and I certainly would be entitled to serious blame and criticism should I hesitate or refuse to attempt the solving of this problem. Whether it is a state or national matter, that comes up later. We did control our affairs concerning the sale of liquor, that was an internal problem; but we surrendered to the National government and must stand by its decision.

This was done in the regular way under the laws enacted to control us. If the facts show the Indian problem to be an internal arrangement, why it does not pertain to the United States for our internal affairs we hold the right to settle ourselves.

CHAIRMAN VAUX:

Have you any practical suggestions?

CHAIRMAN EVERETT:

Yes, I would like you to furnish to this Commission any history, treaty or fact concerning the early treatment and trades with the Indians. I believe the fundamental of this case comes in there. Now, William Penn had regular deeds and satisfactory arrangements with and Indians. There were certain valid arrangements with and agreements between the white and the red men. For sometime, while we were of lesser strength, we considered the Indian in our transactions; but as we grew stronger and introduced liquor, we, so the story goes, got him drunk and dictated terms of the trade and you can hardly call that a fair deal. If the condition of those trades were not legal and just, why we must discover what can adjust it regardless of the inability of the Indian in his present lesser strength.

CHAIRMAN VAUX:

Does that help get a solution of the problem?

CHAIRMAN EVERETT:

Well, I don't know that my remarks have done anything but create some lines of thought rather than solve the problem. What I feel we need is a history of what we originally did with the Indians. I have an impression that originally we dealt with him as an equal, for we were not strong enough to enforce the conditions that have since prevailed, as for a long period the Indian could have exterminated the white man; so, naturally in self preservation, we looked for fair treatment from the Indian. But, later when we got to a point where because of our superior forces, we felt we didn't have to council with him, we were liable to go beyond the mark of justice.

SENATOR BLACK:

I believe this commission should get together with the proper Federal authorities and find out what conflicting conditions exist, the points of conflict and of harmony and settle these points under the power of either the Federal or State Government. We cannot at this time, admit that we should return the State of New York to the Indians because we bought the land at a low price. I assume that if with these difficulties and conflicts, a decision could be reached by this board and the Federal Board and the Indians, then we could have satisfied the body which created this com-

mission.

CHAIRMAN EVERETT:

The statute plainly states that we should discover the STATUS of the AMERICAN INDIAN residing in the State of New York. That is the controlling feature of the discussion as to what we should do. We cannot discover the status of the Indian by simply adjusting this matter, disregarding the actual facts.

SENATOR BLACK:

But, we can discover the proper status by finding out the laws and conflicting troubles; but the finding how is pretty hard to determine.

DR. HILL:

Does the statute mean to determine the status in relation to the Federal government or only as regards the Indians of the State of New York?

CHAIRMAN EVERETT:

The duty of this Commission is not measured by what the United States has attempted to do and we are not restricted to either the State or United States action. The question is- has the action of the State or the United States been legal and just and in my judgment that is a part of the question for this Commission to determine because an alleged act should not be held to have changed the status of the Indians.

SENATOR BLACK:

I think we have done our duty when we discover the status of the Indians of New York and who has authority over them.

DR. HILL:

I beg your pardon but the statute goes beyond that, not only to determine the status but to confer with the Committee of Congress in order that we make the status fit to the State requirement in dealing with the Indians.

HON. SMILEY:

If the question is what is the present status with relation to the National Government and the State of New York, I should say it is like Mohammed's coffin suspended between heaven and earth and touches neither.

DR. HILL:

But, we are to confer with Congress in order to know how to cut the rope and land the coffin permanently.

CHAIRMAN EVERETT:

I have no disposition to rebury the dead, but here is a bill in which the Indians ask for \$60000.00 which they claim in payment of obligations created by the State of New York. We have a case where some several thousand dollars is due and Indian tribe and which has been suspended for no reason. Can we get together and

and decide without the facts as to whether this is a just claim or not. After the facts are presented undisputed, we can find out how much the Indian is entitled to.

MAJOR KNOX:

The only tribunal to authentically determine the status is the Supreme Court of the United States and a legal determination must be reached first.

CHAIRMAN EVERETT:

We must determine how much power the Federal government gave to New York when it adopted the constitution, and when and how these Indian nations lost their sovereignty to either the State or Federal government, if they ever did.

Dr. BATES referred to the Whipple report of 1888 and asked if they did not have some documents in Washington which would be of assistance to the New York State Commissioners.

CHAIRMAN VAUX:

I assure you gentlemen that any records we can furnish we shall be glad to do so. Doctor Eliot and Prof. Morehead have given a great deal of time and study to this subject and I am sure anyone of our Board will be glad to show you any documents which we may have in Washington.

HON. SMILEY: remarked that at the various IN-

dian conferences held in the past that these questions were discussed by men pretty well acquainted with Indian affairs and by legal minds; but, as there was always great difference in views and the rule of the conference being that everybody must be satisfied, they were never able to come to any definite decision.

CHAIRMAN EVERETT:

We are searching the records in the Secretary of State's office and paying attention only to New York State documents. It was the intention of the Attorney General and myself to do nothing other than settle the New York State matter; but, this decision would no doubt have bearing on the other states of the United States. I believe we should get the facts of the treaties, with whom made, for what consideration etc. There is no doubt but what there has been a disposition of Indian property by persons not having authority to do so, maybe a little liquor or something did this. There has been a question over the right of the Standard Oil Company's rights to the privileges over the Indians at Salamanca. They may be true and legal condition; but until the Indian is shown the facts he is not satisfied. However, the final determination as to whether the compensation shall be large or small need not worry us at the present time. I have bought land in the Adirondacks at \$4 an

acre, which originally cost the owners only \$.75; but, upon investigation I found that the estate lost about \$71 an acre thru the final disposal to me. Now, the Indian cannot say he is entitled to \$75 an acre now, if he sold the land for a legal compensation at that time when he transferred it to a white man. I do not think you need get alarmed over the enormity of the money which may be involved for it is a question of just what territory they have never been compensated for.

Here Dr. Parker said he thought we are trying to arrive at the condition which Senator Harding suggested when he used the term "normalcy". He spoke of the six Indian communities surrounded by the State of New York containing a people somewhat unlike because of their tribal conditions. He touched on their physical and moral conditions of the Indians and what would make them the right kind of American citizen. That the proper solution is to secure a condition of normal stability from which real progress may ensue. That we must know who governs the Indian and what rights the State or Nation have to impose and enforce laws.

Dr. Bates then brought forth the fact that in 1811 some Indian mothers requested that land be sold and the money applied to establish school for the Indian children making this statement in opposition to the remarks of Dr. Hill regarding compulsory attendance at

school. In fact, he stated, that funds belonging to Indians have been used to build schools so their children might have some of the advantages of the white children. Regarding health conditions, he tells us that they received their first instruction from the

missionaries and that it is really a matter of self-protection to the white man for the State to render assistance as it has.

CHAIRMAN EVERETT:

Answering the discussion of several members present with regard to what we are doing with the Indians now, relative to sanitation, charity and education, that has no bearing on the question of discovering the status.

HON SMILEY:

Mr. Chairman, I think that a bigger question than National status is that we want to do what is the right thing for the Indian more than the legal thing and I hope as the Chairman said that we will lend all assistance we can for the Welfare of human beings.

CHAIRMAN EVERETT:

I hope we have furnished you gentlemen with the facts concerning our attitude and desire and if we have accomplished this, we will call the meeting closed.

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CHAIRMAN VAUX of the National Commission invited the State Commissioners to visit them in Washington, offering the full assistance of the Federal officials.

EXHIBIT A

-of-

MEETING AT SARATOGA, NEW YORK

July 27th, 1920

JUDGE MARSHALL'S DECISION:

JOHNSON v. McINTOSH (8 Wheat. 543)

(Note) This exhibit, though set forth in full in the original report tendered to the State Legislature, is not included in this copy for the purpose of saving space.

ONONDAGA RESERVATION

Onondaga Tribe

August 16

1 9 2 0

ONONDAGA RESERVATION

Onondaga Tribe

August 16

1 9 2 0

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PRESENT:

Hon. E.A. Everett, Chairman of New York State
Indian Com.

Hon. C.D. Newton, Atty. Gen. member N.Y. State
Indian Commission.

Hon. De Hart H. Ames, member New York State In-
dian Commission

Hon. A.C. Parker, member New York State Indian
Commission

David R. Hill, Indian Rep. member New York State
Indian Commission

Dr. R. W. Hill, member New York State Indian Com.

CHIEF ANDREW GIBSON in Indian tongue gave an address.

CHIEF GEORGE THOMAS:

Now, Mr. Gibson has just given a little
opening talk on the subject and he just wants to
give you to understand that you can proceed with
whatever business you have on hand. You can now
proceed.

HON. E. A. EVERETT:

Mr. Chief and members of the Onondaga tribe,
we come here as representatives of the Legislature
of the State of New York, and of the people of the
State of New York. Several attempts have been made
to adjust the affairs existing between the Indians
and the white men of the State and Nation. Now, a
decision of a Federal Court holding that the Indian

is a ward of the Federal Government and not of the State, was the cause for the creation of this Commission. There have been several thousands of dollars spent by the State of New York in the care of the Indian and carrying out of treaties which have been made with him years gone by. The decision, holding that the Indian is a ward of the United States, would make it a crime for the State of New York to spend the State's money for the Indian if that were the case and fact; and therefore, that was the cause of the creating of this Commission. Now, the statement made in the statute instructing us as to what we were to do in this matter is in the following language--We are to discover and report to the Legislature of the State of New York as to what is the status of the American Indian residing in the State of New York. In interpreting the meaning of the word "status", as we have construed it, we should go back and discover in the first place the relationship that the white man sustained to the Indian and the Indian to the white man when he first came to this country. That is our interpretation and duty of what we propose to do. We came here to hold a meeting for the purpose of finding out just what the relationship was between the Indian and white

man when he first made his trade or treaty with you.

In some instances, you have not been considered as a nation or as a people of a nationality having a country. The courts and authorities have failed up to date to establish your relationship to the white race in a manner that we could consider the question settled. For example--; One of our recent decisions states, in the first place that the Indian is an alien. You know what that means, -a person not a resident of the country in which he is now living, not a resident in a legal sense. The next paragraph states that the Indian has never disposed of his right to selfgovernment and further that you are wards of the United States. I am repeating these decisions and statements to you because they are now the law of the land, a judicial decision in the law until some other higher court reverses it. We are looking to you, so far as we can, to furnish us with a record of the history of what your tribe or tribes did with the white man. It is conceded and must be by everybody that you were the inhabitants of this country when it was discovered by the white man. My comprehension is that I must go back and find out, if possible, just what your relationship was at that time, how they considered

you, how the question of international law will apply in your case and what the decision of this Commission should be following the accepted laws apply to international matters. Because, if you were a nation when the white man landed, you were entitled to the treatment that one nation should receive at the hands of another nation. I am making these remarks to make you acquainted with the difficulties of this problem. We have with us the Attorney General of the State, of the legal department, as a Legislature, he looks to that department for instruction in legal matters and I think General Newton will state what his intentions are and what he will endeavor to do in performing his part of the duty.

ATTORNEY-GENERAL CHARLES D. NEWTON:

Mr. Chairman, Mr. Chief and members of the tribe, ladies and gentlemen:- It would be idle to say to you that I have a very intimate acquaintance with the rights or alleged rights of the Indian, because I have not and few people claim to have. The purpose of this visit, as stated by Chairman Everett, is to get together facts which will enable the law making power of the State or Nation to find out and determine the exact legal status of all of the Indians of the whole country. Now, to my

mind, so far as that is concerned, it is not of as much importance to you, as individuals, as some other things that will follow the determination of that right and status. If I have any qualification which is commendable, it is one of fairness, perfect fairness. That hurts nobody and given to everybody in every part of the country that which is absolutely their due. Everyone is entitled to that and you all are, and with it you will all be content. Now, undoubtedly, the foundation of the legal right or status of this community and all others similarly situated depends entirely on the original acts and treaties which are undoubtedly older than most of us here and shall need studying and the intent of your forefathers and those who held them must be determined and must be without any prejudice and your rights should fully protected. As far as the Attorney General's Office is concerned, as long as I have management, I can assure you that will be its programme. First, to find out what is right fair toward you and the community and when that is done reach conclusions that will do no violence. Now, personally, my idea of the situation is that what you ladies and gentlemen need is an opportunity to improve yourselves and your conditions. There are two things

needed, education and an opportunity to follow your own ideas of government so long as they are conducted in the interest of your organization. But, education and a knowledge of the ability to learn and earn are two of the factors, which individually will be of great benefit to you, yes, greater than an opinion reached by the Attorney General's Office of this State. I am here giving my personal attention because it is novel as so far the statutes and treaties have never been presented to the Attorney General for opinion and it is with an idea of getting some personal touch of your surroundings and conditions, so that in the end, when the whole thing is brought together, we may do what is right and should be done, in your interest and every man and woman be satisfied as well as similar communities throughout the state. You will undoubtedly receive a benefit and every person will be treated fairly.

CHAIRMAN EVERETT:

We are now ready to receive any suggestions, and information that would assist our Commission in finding out the facts concerning the history of this tribe, so far as you know, in relation to the councils, trades and treaties between the Indian and the first white man, the original white man who came to this State of New York and got possession of it.

If you have any personal information or written information concerning the manner in which you or your forefathers disposed of what they and you claim to have in an ownership in the property interest of the State of New York.

MR. DAVID HILL, INDIAN REPRESENTATIVE, interpreted in Indian tongue what Chairman Everett stated.

CHIEF GEORGE THOMAS:

I would like to ask Mr. Parker concerning the letters you sent to different members here stating what this meeting is for. The Chief here has the opinion of bringing up the subject entirely different than the way you stated in the letter and we would like to find out on that.

CHAIRMAN EVERETT:

If the letter written by Mr. Parker was misleading, I am very sorry as it was not an inter-

is part because this matter has been thoroughly discussed and the attitude will not be changed while I am chairman of the Commission. I want to make myself clear. The decision of the Court which was made last April fixed the status and relationship of the Indians in the State of New York, as well as the Indians in any other state in the Union, as subjects of the United States government. How, the State of New York, ever since its organization

as a colony, has looked after the affairs of the Indians who were living in the state; that is a matter of history'. Now, a court decision changes the rights and controls the acts of anybody within the jurisdiction of it, and the foreclosure of a mortgage in Oneida under the State Courts was reversed and the Indians reinstated on the property after the possession had been given to a white man under the foreclosure proceedings. Now, that changes the legal relationship of the Indians of New York State and the State Comptroller is right in his position that the state cannot pay out money for the care of the Indian if he is a ward of the United States, as the United States government must then do that. It makes no difference if we agree with that decision, it is the law of the land until changed by a higher court decision. The duty of our Commission is to discover whether it is correct or whether the judge is wrong, that the Indians of the State of New York are subject to the United States and that the State has no obligation to take care of the Indian. We are here to assist you and ask you to assist us in the discovery of the original trades made between the white man and the Indian concerning your releases of property to the white man; if you owned it and to establish the fact that it was not necessary to

white man if you didn't own it. I believe you are a people and a nation and are entitled to be credited and considered as a people and as a nation and the occupants of a territory known as a country, now the United States of America. My attitude is that if you did own this country when it was discovered by the white man and it was taken from you without proper and legal and just compensation, it should be returned to you. (applause).

So far as I am concerned, no trick or tricky practise will be tolerated by this Commission I will say that I don't ask you to believe me until you find I have been telling the truth, as I know you have been lied to before, but when you find this Commission is trying to do what is just and proper, as has been stated by the Attorney-General, I ask you in the interest of solving this case that you give us your confidence and honest, sincere assistance. I appreciate the fact that regarding treaties, transactions and trades that not in every case did the Indian have a record of it. It was not a part of your custom to have written instruments when you disposed of territory; but you established certain land marks which were sacred to you and the men whom you dealt and the tribe which didn't keep the

agreement was considered outlaws and criminals. I appreciate that you are under a certain embarrassment in not being able to produce agreements; that you did not care for that sort of record because it was not a familiar method of conducting your affairs. It is not a part of this Commission's intent to take advantage of that. If we can find out the true attitude of the white man and what he told your forefathers he did, we are going to make a finding which carries out the letter and spirit of that trade. I hope until you find that this Commission is not acting in an honest, and fair way, that you will give us your assistance and we will not ask for confidence until we have won it. Let me just further state, I appreciate that the problem which we have submitted is one requiring study and careful thought and that it would have been almost impossible to put into a letter the facts as completely as have been stated to you this afternoon and if you are surprised at the request for facts and conditions, we are ready to give you all the time you need to counsel and consider among yourselves what you want to do. We are as anxious to have this matter settled as you are, but rather that it should be done right than quickly.

HON. A. C. PARKER (addressing Indians):

Mr. Chairman, my letter to you advising of the coming of the Commission was based on the history of the Commission, at the time of its inception and the purpose as outlined by the Commissioner of Indian Affairs in his brief report of 1919 and I will read it to you (read from report). In making some reference to that, -in my letter to the chiefs, -I requested them to prepare their opinion so far as it affected their tribal independence or sovereignty, which raises the question as to whether that caused their relations to be with the United States or with the State of New York. If they believe themselves to be wards of the Nation or of the State or whether they deny both and assert independence, that is only one feature of the question, the legal feature of which has been stated by the chairman.

CHIEF THOMAS:

Mr. Parker insists on explaining to us and it seems we are familiar with the statements to be just made. I think it is more like the letter he sent the various members of the tribe and in that particular we have an answer for that which I will read to you.

"It is the will of God and the people, we the Chiefs of the Onondage Nation of New York State

and do hereby agree that the Federal Government of Washington, D.C. be the guardian of the Indians of the State of New York and to see that the treaties of 1795 between the Five Nations of New York State be lived up to by the said government. We firmly believe that the State of New York has no jurisdiction over the Five Nations of New York State.

Signed by the Chiefs of the Onondagas"

However, the signatures of the above were not affixed nor was it submitted as an exhibit to this report.

MR. JOSEPH JOHNSON:

May I ask a question? Was it thru the request of the Federal Government this Commission was appointed or thru the State of New York that it was appointed?

CHAIRMAN EVERETT:

As I explained when this decision was made that the Indians were wards of the United States, the State Comptroller raised the question of his right to pay money for the Indians if the obligation was the United States's obligation. The law of the state only allows the Comptroller to pay money on state matters and the payment of money not pertaining to an obligation of the state is illegal. No, the United States government had nothing to do with it. The Commission was organized and appointed by the State of New York to determine whether that decision was correct and proper, namely; -if the Indians were wards of the United States, all matters

would have to be turned over to the United States government and any obligation would have to be taken care of by the United States government.

MR. JAIRUS PIERCE:

May I ask about the treaty of 1788, between the State and the Onondagas? Have you examined that to satisfy yourselves that that treaty is void?

CHAIRMAN EVERETT:

No sir, I have not.

MR. PIERCE:

I hold that the state has no jurisdiction and therefore all the lands will have to be thrown up and you will have to clear the city of Syracuse as you said you would redeem all lands taken wrongfully. Shall we call for a new treaty or go to the United States and say the State has taken our land wrongfully? You would be powerless, wouldn't you?

DR. EARL BATES:

I have that treaty of which Mr. Pierce speaks, between the State and the Onondagas, showing the basis on which the Onondagas sold their interest except the 100 miles square and kept the sixty-one acres they have. That is the original sale covering most of the state. There is the treaty

of September 12, 1888, by which they ceded all their interest in the land in the State, except the one hundred square miles.

MR. PIERCE:

The Attorney-General made motion, I was right about this land question. I suggest that my chiefs bring an action to test the legality of the treaty but as long as you are satisfied you have no claim upon it why all right. I think you are right here to place the question up to the Federal Government.

DR. BATES:

There was one question raised, -At the time the State of New York made this treaty in 1788, she was merging from the colonies but the Federal government did not come into existence until the year after. I think that clears the matter.

CHAIRMAN EVERETT:

I suggest that we learn what occurred when the Colony of New York merged into what is known as the United States of America. I want to suggest this, -that as a Commission, we are not asking you to do anything that is an original idea with ourselves. We are trying to find out what has been done and if you are a ward of somebody, you must have a guardian. Is it the United States or New York?

The treaty referred to was made between the Onondagas and the State of New York before the thirteen original colonies combined to make what we now call the United States of America. The question to determine is, did the United States of America, say, "You must take care of these internal affairs yourself, we will not have anything to do with it." I refer to that as it may be similar to the trade which the colonies made with the Indians. Now, get this firmly in your minds, the State is not trying to get out of paying the money or stop the appropriation to the schools or of the Health or Sanitary department or the Charities Department; but if it is a United States obligation, it has nothing to do with it, except to contribute its share with the several states to a general fund of the United States treasury and the United States government would have to pay the money. Otherwise, it would be dangerous as some fellow might come over from Canada and say, "Give me some of your money." In fact, at first they said they would not continue the appropriation made by the State and I went to the Governor and said that until the question is determined, you must do that and also got from him an appropriation of \$10,000 to promote agriculture, to educate the boys and girls who could not pass the Regents entrance examinations and could take this special course to equip themselves and come back to you capable of assisting you in bettering your farms and \$10,000 to establish a High School at St. Regis reservation. The Governor, Mr. Smith, said that we must not discontinue our program a duty to the Indian because the United States is obligated to do it, until that question is legally determined. As officials of the State of New York we are compelled to find out who is to pay the money. We shall not do a thing to stop the payment to you and are not doing that, but ask you to help us find out if it is the United States or the State of New York which shall pay it. In solving the question of the liability, I maintain we

should solve the question of the relationship of the Indians to the white man. The word status, in the Bill, compells the Commission to find out what that relationship was and we cannot do that unless we go back to the first trade or treaty made between you and furnish us with your idea of what you know about the meaning of that trade or treaty. You seem to have drifted into a small territory and I can't find out what change the boundary lines of the original trades. We must decide the question on the facts and are not quibbling in favor of the Indian or the white man and if you won't help us, we are going ahead and try without your help. I believe you will find it is to your interest to help us, get this information, when you talk it over among yourselves. Now, we will get what information you are able to give us.

MR. JOHNSON:

Fairness! Now, we consider if we had fairness, we would all have been satisfied. You can call me a Bolshevist or whatever you want; but I am an American. I live in the same land that my father and forefathers were born in and possessed thousands of years ago and still I am classified as an alien. I was told it, but Dr. Bates says he never said so. The Indians were aliens because they were wards of the Nation. I say we Indians in the state of New York, as long as we have treaties with the State and the United States government, we are a separate government surrounded by the United States. The Indians made their own laws right on this reservation. There was a time when no state or county authorities dared to cross that line. We had treaties and the United States had the Monroe Doctrine working

with this reservation, the same as the countries surrounding the United States had. Now, we Indians are quartered off in a little bit of land called a reservation. I say, we are a separate country from the United States as long as we have treaties and yet we are called aliens. As far as I can solve this problem, we have to do something by men coming from the Capitol of New York State empty handed to investigate the status while they have any quantity of papers which run back to the seventeen hundreds stacked up in Albany and Washington which they might have brought and shown some light on the subject. We have no records, because our forefathers took a stick and notched it and if you take a stick a hundred years old, how would it look to you today?

ASSEMBLYMAN AMES:

But some of the Indians tell me these papers are not correct.

MR. JOHNSON:

How do they expect us to have the correct papers, if you have not?

ASSEMBLYMAN AMES:

Well, Mr. Lyons told me he had the correct copy of a treaty.

(however, Mr. Lyons did not seem willing to exhibit it)

MR. JOHNSON:

We know that what we signed in the books is all written by one side, the white man has written them to satisfy himself and down the Indians. The worst enemies among the Indians today are the missionaries, we have been damned by them. There was the Rev. Kirkland and an Englishman sent from England by the Ogden Land Company and not only that but you find them on the reservation today. When they have a man they don't know what to do with, they simply send him on the reservation and say,

"It's good enough for the Indians." Now, if he improves and he often goes after he is on the reservation, why they send him another place. But, if the Indians would listen to our own teachers they would improve quickly, very seldom you will find a preacher with a better religion than our own. The whites get on one side of the church and the Indians on the other and the first thing you know he is grabbing. According to the United States Court decision, the state has no jurisdiction over the Indians except to make laws to protect them. If they appropriate a few dollars for the benefit of my health, is that protecting me or not?

DR. BATES:

Are you asking me that question?

MR. JOHNSON:

Wait till by and by. If the state appropriates a few dollars, \$5,000 for the Commission to travel thru the State of New York to find out how the Indians feel toward the State's guardianship, I will say that as a fact I don't think we Indians care who is our guardian provided we are treated right thru state authorities. I hate to make a statement for I believe there is lots of room where Debbs (sic) is for making remarks against my government, and I am liable to spend my vacation there for the next twenty years. But it is a fact that the state has allowed county courts to pass opinions upon land transactions when it knew it was fraud and still upheld it.

DR. BATES:

Don't you think you are making a pretty broad statement when you say the state knew it was fraud and upheld it. I don't think you exactly mean that.

MR. JOHNSON:

It must have known provided the rest of us knew, for one of our Assemblymen was represented at the state at that time.

DR. BATES:

Don't make such a statement, because it is not just to make such a broad statement, so very broad and condemnatory.

==(Here it was brought to the attention of the Commission that Mr. Johnson was not an Onondaga but an Oneida and therefore taking the time allotted to the Onondaga's as the Oneidas' had the next day reserved.)

CHAIRMAN EVERETT:

We must ask the Oneidas to wait until tomorrow which is assigned to them. Now, if the Onondagas would like to make any statement pertaining to the matter of the inquiry, the Commission will be glad to listen patiently and earnestly to what is said. We want in all fairness to have a frank expression from the Onondagas.

CHIEF CHAPMAN SCHENANDOAH:

May I ask a question, while you have the Onondagas?

CHAIRMAN EVERETT:

I think it would be better to wait for tomorrow which was assigned to the Oneidas. The intention was to permit each nation to have full speech for itself upon its own appointed day. That seemed to be the fairest way to get a frank, free and full expression of the conditions of each tribe.

CHIEF SCHENANDOAH:

It looks as if you are trying to separate the tribes. It looks like some foreign country coming and trying to separate the states of

Pennsylvania and New York and make them ask for themselves. We are a league of Nations, like you are today with Uncle Sam as boss and when the South tried to get away we had a Civil War.

CHAIRMAN EVERETT:

We won't have any civil war today, we simply want the Onondagas to talk today and the Oneidas tomorrow.

MR. LIVINGSTON CROUSE:

I would like to understand fully what the ward of Indians really meant. If the Indian is under the guardianship of the State or Federal government, it makes no difference; but I want to know just the interpretation of the guardianship. If the Indian is a ward, then they have no voice in the government. As I understand the guardian is like this-- you take a child not of age and cannot take care of herself, then a guardian is appointed to take care of this child and if we are under that meaning, I would like to know how we stand. Are we as a nation or as a child?

(The Attorney-General having an appointment, was compelled to leave.

CHIEF JESSIE LYONS:

I hate to say anything while the Attorney-General went home, that is when I should have said what I think of him. I know it would strike his heart and make him think of something; but he wants to take his train back home and if I had a home I'd go right away. As I understand the State appropriated some money to let the agent look after the Onondagas. He did a lot of good, working for the whites. I am sorry he is not here today. There is a white man by the name of Moxie living inside the reservation three-quarters of a mile from here. I am sorry the lady

who made the complaint about three weeks ago is not here now. The white man is supposed to pay on April and today he has not paid \$38 or \$40 and still is holding the land, house, barn, etc., that is the kind of agent we have. He don't do his duty. If he did he should tell him to get out if he won't pay. Miss Farmer wants money to make complaints. The agent runs to anybody when in the reservation and makes his own adjustment what he wants and on this reservation we find most of the families they don't understand because the agent works without consent. I hope the State gives a "knock in the eye" for that kind of business. I went in April to see Judge Ray about this matter and he said the State agent had no jurisdiction to draw any lease so I came back and he said he was authorized from the State, so we don't know where we stand today. We don't know if he has the jurisdiction or not and if any person wants to make a lease he must bring it before the Chiefs. That is all I can say, the agent don't do his duty, whatever. There is a question we can prove, we can back the remarks that he don't do his duty.

ASSEMBLYMAN AMES: (addressing Jessie Lyons)

Have you a copy of the treaty to which you called my attention this morning? Mr. Lyons did not produce the said treaty.

DR. BATES:

I am merely a visitor of the Council; but would like to say a few words. Now, we are interested in it by visits to jails, courts, etc., for the last ten or twelve years. For many years there have been New York State agents on this Onondaga Reservation who made leases which caused a great deal of trouble with the Indians. The Indians always maintained and have maintained that under the treaty of which Mr. Pierce

spoke, the treaty of 1788, the right of any person except an Indian to live on the reservation was denied, except a school teacher or clergyman. Under that treaty between the Onondagas and the State of New York, they agreed to have nobody on the reservation, except a school teacher or clergyman. Now the New State agent and succession of agents doubtless grew upon the desire of the State to save the cost of sending a man to the Onondaga reservation from Albany to pay the annuities due on the treaties. They found it better to have a New York State agent a resident to pay the annuities which are due the Onondagas, and possibly also thought it better to have one man for a time than to send a stranger each year. In 1878, Mr. Pierce tells that a New York State Indian agent secured the passage by the legislature of a Lease Law and the council of the Onondagas, at that time, protested against the passage of the law, saying that it was against the meaning of the treaty between the State and the Indians. But, as usual, the white man had his way and the Indian sat back and took what he could get. This is the idea of how they obtained that lease. The Agent took two old women to Albany before the Legislature and then said how they had a lot of land and how nice it would be to have a white man work that land and they would have something to live on and so they passed the law ignoring the protests of the Onondaga Chiefs. Now, these leases were drawn by the white man and the agent and the Indian seldom saw the copy or even got a copy of the lease. The Indians allowed it because they couldn't help themselves. The white man came in and worked the land about a year and put up a bed, barn and finally a house and in three years they lived there. That is how the white people came to live on this reservation and they imagine

these leases give them the right to live here. We demand one in the Federal Court. A family named Knox, who lived on the reservation a great many years and under one of these leases but thru a clause in the lease Judge Ray decided that the whites were not entitled to live on the reservation. This is why the Onondagas care little or nothing for state jurisdiction. They like Federal jurisdiction because under that treaty of 1795, they were recognized as an absolutely independent nation. There is no other construction you can place on that treaty, if you can, I would like to see it. I am not speaking about the Tuscaroras, Oneidas or Mohawks, but only the Onondagas. The United States recognized the treaties of the Onondaga Nation and that they would never claim the same or disturb them in the free use and enjoyment thereof, and the said Onondaga reservation shall remain theirs until they choose to sell it to the people of the United States. I tell you this that you may understand the attitude of the Chiefs. Under this treaty the United States agreed to pay the Onondagas a certain amount of cloth and each year they get it and that shows the United States tries to live up to the treaty and that is why these chiefs feel they get better treatment from the United States than the State of New York. Then, these leases are what cause the feeling of the Onondaga chiefs against the State of New York. I would like to leave this lease with the Secretary of this Commission. I feel it will solve a very important question and believe it should be kept in the archives of the State. In that we get Steve Webster back on his land and the white people off.

DR. HILL:

The lease will be filed as an exhibit in the records of the Commission. Are there any more of the Onondagas who would like to speak as our time is growing short?

MR. A. G. PARKER:

Mr. Chief, is it the desire of the Onondagas that some bill be introduced repealing the lease laws affecting the Onondagas?

CHIEF THOMAS:

Mr. Chairman, in that respect, I think the leases should be left in the hands of the chiefs. I think the lease matters should be taken entirely from the agent because it now causes too much trouble. It causes a lot of our people to be dissatisfied and a lot of people to be without lands to cultivate. Furthermore, we have people here pretty well based in agriculture and I should think these chiefs would be willing to let their lands to such people as I have mentioned and be willing to let the lease matter left in the hands of the Chiefs.

DR. PARKER:

Do you think that leasing the land would get more money per acre?

CHIEF JESSIE LYONS:

I think they could be made to pay a little more than they generally do now. We get \$1.50 or \$2.00 an acre when it is worth from \$4 to \$5 an acre.

DR. PARKER:

And this had the sanction of the agent?

JESSIE LYONS:

Yes. I know a fellow who wants two years lease and the agent says take ten years; but he says he wants two years and the agent he says make it ten years and if you don't want it you can drop it at any time you feel like it.

→ MR. HILL:

To interrupt, Mr. Lyons, you are practically charging the agent

with a very bad administration of his office in the way of protecting the best interests of the Indians. Is that the way you want it to appear?

CHIEF THOMAS:

I think this is a good time to find out whether the office will last another year or if the Indian agent is put on the Commission as an Indian agent. We have decided from time to time that the agent was a detriment to our government and we have been trying to obtain some knowledge from the state in some way to find out whether this office of Indian agent could be stopped because it is a hinderance to our business here. We would like to have you find out about that because it is very important; this is no small thing and we want to find out about it a year ago or longer and we want to put that in your mind and the first chance you get we want to find out as soon as possible.

MR. PARKER:

What do you assume the duties of the agent are?

CHIEF THOMAS:

The only thing I know is he is to look after the transactions of the Indians with whites, that is, so far as the leases are.

DR. PARKER:

Does he pay out any money?

CHIEF THOMAS:

The only thing he handles money that the people who lease the land pay when the time is due it goes thru him and he pays off the ~~own~~ ^{own} ~~ers~~ ^{ers}.
mers.

MR. PARKER:

Does he distribute any annuities?

CHIEF THOMAS:

Yes.

DR. BATES:

Also salt. The Onondagas sold to the state of New York the salt mines of Syracuse and the state agent distributes in annuity so much salt each year. We also distributes the annuities from the treaties with the State and the lease business. Then, as I said, the lease work is very important and I don't believe any agent has any right all these years.

MR. PARKER:

If that function was taken from him would it render him less injurious?

DR. BATES: (to the Indians)

Do you have any objection to his paying the annuities or the salt, you only object to him regarding the leases?

INDIANS:

No.

MR. PARKER:

Your objection to the agent is on account of his personality rather than his office?

MR. THOMAS:

I already stated in regard to that, there is a lot of dissatisfaction over his services. I suppose I mean to say, I either go without him or let me transact that part myself.

DR. HILL:

The objection is against the individual rather than the office.

MR. THOMAS:

I don't wish to assume the duties of the office of that department, only the duties of my lease affairs. If the state approves this office to distribute the salt, and money, that is different. But, then here is our land leases which I say cause a lot of hinderance and is a poor way of transacting business.

DR. HILL:

I gather, Chief, from what you have just said that you have no objection to the agent's continuing the distribution of annuities but you want to be relieved of all relation to leases?

CHIEF THOMAS:

It would be more satisfactory.

DR. HILL:

If the agent is relieved of any responsibility of control in the way of leasing, who would safeguard the interests of the Indians desiring to lease their lands?

CHIEF THOMAS:

We would have to stand our own responsibility in that matter, just as I have done when it was up to the state. I have to stand the responsibility and it would be the same case.

DR. HILL:

You, as an educated and competent member of society, would be competent to protect yourself. But, are there not many members of the Onondaga Nation not so versed in business and not so competent to protect themselves if left without anybody to protect them?

CHIEF THOMAS:

In connection with that lease statement you have asked me as to whether I was competent enough to transact my lease business? I want to make that plainer. They have appointed a lease Committee among this reservation thru the chiefs here and this Committee are to look after the leases of our people in the State. That is, provided the State is agreeable with our intentions of doing. Of course, we have as much voice to say in regards to that. Maybe it will help in untangling this problem. So, I want to make this plain to you, we have appointed three persons as a committee to look after the interests of the people here.

DR. HILL:

You would have the leasing power transmitted from the agent to the Committee of the tribal council appointed for that purpose?

CHIEF THOMAS:

Yes.

MR. PARKER:

There is a question if a white man who desires to come here and open a business can come without Supreme Court consent and consent of the Chiefs.

CHIEF THOMAS:

I think in answer to that it gives that plainly in the treaty to that effect. It does not allow for any white person to make a residence on any part of the reservation so I don't see any way he could come unless there is a violation of that treaty. But, when you know you have certain laws to abide by you can almost tell when there is a violation, alth it doesn't show the effect and cause an injury, but it

will if you let it grow. My opinion of that point is this: Suppose one of your women here intermarries with the white man. Well, in the course of time, their children will cause a certain portion of white and Indian blood. Consequently, it will grow to a state and before one reneration is up these people will be all white. Are they going to have the land? That is the injury of that point, have I made it clear? We have a case, they have grown up to be practically white people and are residing on the reservation and the chances are these lands will continue to be possessed by the whites and that is the dangerous point. I think this reservation was meant for a certain class of people, as I understand, and I think if it was meant otherwise this reservation would not be standing today.

As far as I understand the lease problem, I would like to explain this. If the chiefs get the power of acting as an agent for the Indians, as far as leasing the land, if it is done it should be done in some way that the man who does have the right, they ought to give a certain bond to do justice. We are getting so now we don't care if we do justice or not; if I feel like running off with you I will now. If any Indian gets a power of attorney they should be some legal bond to it.

DR. HILL:

You mean if the leasing power is transferred to the Committee of the Council? You want to be protected against the Committee of the Council? You mean there is a liability that this committee will act to their advantage in dealing with the leasing?

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Yes, I am afraid it will.

DR. HILL:

Of course, that is a matter that would have to be guarded very carefully.

COMMISSIONER BECKMAN:

The State law says an individual can't lease the use of or rent the ground so it should be looked up so the individual gets his rights of rental out of it and if the Nation draws it, of course it goes to them; but as far as any individual has salt or mineral on his land, I believe he should get the benefit of it.

MR. CROWSE:

The State law says that we shall surrender those minerals to the Nation. I don't just really like that statement in the treaty or state law, what it is I don't recollect, but I saw there. Then, if you do away with the State and let the United States control us I suppose those things will have to be done away with and established a new one to govern the Onondaga Indian? But, I don't know what you will do and probably you do not know what they will do. So, I suppose there is no use arguing about it.

MR. CROWSE: (In Indian tongue, interpreted by Mr. Thomas)

We have taken considerable time and explained about the agent, now in regard to medical care that is given to the reservation for sick Indians, he would like to know about that.

DR. HILL:

We do not know anything about that matter but would be glad to have you state whether the attention given is sufficient or enough and whether the physician is available when needed. For the State intends

that the physician for the reservation shall not only be competent but willing and earnest in his duties toward the people of the reservation.

MR. THOMAS:

I shall endeavor to answer. We have had doctors ever since I can remember appointed by the State and they have rendered some favorable services and they have rendered some unfavorable services. I suppose they think that "fifty-fifty" should be all right to go on. I don't like to take a personal attitude by my own experience with the doctors. But, I think you approve of my statement that I have had several cases when I was badly in need of assistance. I have two children which I am bringing up and possibly I had doctors on several occasions. Then, at that time, I telephoned up for a doctor and he was away; but his wife answered that she would notify him when he got back. But when night came and he didn't show up, I concluded it was no use to wait for I already had complaints from different parties here and there, so I felt I lost my confidence that time. It was a case of no waiting. It was a case needing immediate attention. Of course, your doctor might have been attending some other person which he has a legal right to do. Whether they live so far away or whether they were not paid for their services, I don't know as I am only telling you the instances that occurred with the physicians on this reservation.

DR. HILL:

You said perhaps the physician was not paid enough. Do you pay for his services or do you expect free service?

CHIEF THOMAS:

When I have to hire somebody else outside the state, I have to pay

whatever he charges. It has been this way quite a while.

MR. LYONS:

The doctor bills come out of our yearly money to the Onondagas.

DR. BATES:

I have gone into the question of the physician's coming here to the Onondagas and come to the conclusion that the office came into existence when the smallpox epidemic came. Perhaps Mr. Pierce could tell

MR. PIERCE:

No, that was before my time.

DR. BATES:

Well, in Albany they said the Indians were dying like flies and so created an office and appointed a physician by the County Board of Supervisors. He is paid for by the State of New York out of what we assume to be Indian funds. He is not under control of the State Health Department. Nor does he act as health officer or keeper of vital statistics.

DR. HILL:

Where does the Indian fund originate?

DR. BATES:

Under the treaty of 1788, a certain sum of money was laid aside for the Onondaga's interest in it. Also when the land now occupied by the City of Syracuse was sold and by the Lafayette purchase that money was put in as a whole and the Onondagas derive a certain annuity and I understand the Physicians' bills are taken out of that annuity money of the Onondaga Nation.

MR. PIERCE:

But not state money.

DR. BATES:

That is Indian money held by the State.

DR. HILL:

That may have been the intention originally; but I doubt very much if such money is now taken from the general Indian fund.

DR. BATES:

There is another matter in regard to the nurse question.

DR. HILL:

Before that matter is taken up, I think we should give a little further attention and consideration to this matter of a physician. If the physician on the reservation is appointed by the Board of Supervisors and has no responsibility to the Health Department or any other Department of the State how is he to be controlled so that his duty shall be properly performed? I would like to have that given consideration.

DR. BATES:

We have given that matter very careful consideration when we have gone to the Board of Supervisors and had these physicians removed.

DR. HILL:

But that does not seem to be automatic. From your statement it appears that a body of citizens are compelled to complain for the removal of an incompetent physician. There should be some method more direct and prompt to secure faithful and competent service.

MR. PARKER:

Do you understand, Mr. Chief, that the physician is paid an annual salary with the understanding that he shall come when he is called?

CHIEF THOMAS:

No, it is not exactly that. We only know the State has appropriated a physician for the tribe. We don't know in what attitude he is or but only that he is acting as a physician and the people who need him generally call him up and what I heard about the services there is some not very favorable. I think they had the right to attend to other persons outside of the reservation and that they then neglected their duties on the reservation. I was going to say they are expending this money almost for nothing, that is these physicians are not giving the service for which the State is paying the money. That is one of the points I want to explain. We have had several doctors and they seem to run about on the average.

DR. HILL:

Mr. Chief, should the State be expected to pay a physician to provide service for Indians on the reservation other than those too poor to pay the doctor's fees?

CHIEF THOMAS:

That is another question. I think in the first place this doctor was appointed for that particular tribe whether rich or poor and I think everyone on the reservation should have equal right or privilege of using this doctor whether rich or poor. As I said, some are able to procure their own physician and want to do that and some is all well and find. They get better service by paying cash.

MR. PARKER:

Do a considerable number of the Indians employ other physicians?

CHIEF THOMAS:

I think there are quite a few. You know how it is when you need a doctor, you have to have him and are willing to pay for it.

MR. DAVID HILL:

May I ask another question, Dr. Bates, do you know how much the physician is getting this year as a salary?

DR. BATES:

I think it is about \$700. I might say in view of the conditions relative to health on the Onondaga reservation, it seems best we should have a resident nurse, a competent physician who might come in when the nurse thought it desirable. You see many of the physicians maintain they are called in unnecessarily.

MR. PIERCE:

I think we have departed from the meaning of the question. We have gotten to the its and ands. The State has no jurisdiction, whatever, as I understand and they came here for the purpose of solving the problem what the Indians can show and I make a motion that for the present we go away and find a conclusion to give a reasonable answer. When we come together again, I am willing to help all we can. If the United States has the jurisdiction, we want it to be there. The Commission wants to solve the problem. We want evidence that the statement is correct. We have no records, but Mr. Everett knew that, except the traditions told me when a young fellow.

DR. HILL:

We believe that the Commission is in a position to acquire information on these points to which you have referred. But if in the

meantime the people are dying upon the reservation because of failure on the part of a public official to perform services for which he is paid, we want to know for it affects the present condition.

MR. PARKER:

There will be a meeting tomorrow affecting the Oneidas and we invite their voice expressing their desires and what information they can give. This will be as near 10 o'clock as possible.

ONONDAGA RESERVATION

O N E I D A

TRIBE

August 17, 1920

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PRESENT:

HON. E. A. EVERETT, Chairman of New York State Indian Commission

HON. DE HART H. AMES, Member of New York State Indian Commission

DR. R. W. HILL, Member of New York State Indian Commission

CHIEF DAVID R. HILL, Member of New York State Indian Commission

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CHAIRMAN EVERETT:

I don't think it necessary to repeat what was said yesterday but it might be well to do so if you gentlemen are not informed as to the object of this Commission and its duty, do you understand?

CHIEF MARSHALL JOHN:

As some members of our tribe were not present yesterday, it might be well to repeat.

CHAIRMAN EVERETT:

This Commission, of which I am chairman, was created by an act of the legislature in 1919; the requirement of this Commission was caused by a court's differing with the opinion of the Attorney General. That decision was to the effect that the Indians of the State of New York were wards of the United States and not of the State of New York. That the control and government, so far as the government of the United States had a right to interfere with the government of the Indians on their reservations, was in the United States.

The State of New York pays out several thousands of dollars a year for the maintaining of sundry conditions, health, education matters, etc. and also the paying of annuities that were the results of treaties and trades between the State before it became a part of the United States. Now, the law of the State of New York makes it a crime for any state official to pay money for any object except what the state is obligated for. It is not a quarrel that created this Commission, but a fact that the state cannot pay out money for the support and maintenance and care of the Indian if not a state obligation, for it must then be paid by the United States government and the state would bear its share with all the other states. This Commission was created for the purpose of finding out what the treaties, trades and relations were between the Indians and white men in years gone by and to determine from their nature, language and interpretation whether it remains a state obligation, or whether when taken into the United States the obligation was passed over to the United States. So, that has nothing to do with local conditions, as a matter of fact, now in how you are conducting your affairs; but, we have to inquire, under the bill, into the Status of the American Indian residing in the state of New York, which means whether your state of conduct relates to the United States, so far as money or control is concerned, or if it is a part of the duty of New York state. It is not with an intention of avoiding an obligation or making null a treaty, but to find out who is to pay the money. I understand there are one or two cases where the State has stopped paying the annuities or annual amounts, to a large amount of money; but we cannot pay it with the uncertainty created by legal opinion. Our object and wish in making this trip to the

reservations is that you will furnish us with any and all facts that relate to your relation with the white man. You needn't designate whether a representative of the State or Nation, but give us what facts you can concerning the trades, treaties etc. which you have had with the white man and then we must determine whether this is a state or national obligation. Don't get the wrong impression that this is an attempt by the white man to shirk a responsibility. Don't think it is a part of this Commission's idea to try to trick you into losing some of the things you are now receiving. I want to say frankly, I think there is something coming to you in the way of property you have been frauded out of. I haven't any facts at hand to warrant that statement; but, I cannot see how the Indians could be reduced in number and acreage and property, if they were the owners of the state of New York at one time. I think it is up to the people of the State and Nation to make an account to the Indians as to property they have taken and state the facts regarding their payment of it and by what shape or kind of property it was paid and after balancing the books in that way, it is our duty to care for you, let us have an account so that nobody can complain that the Nation or State failed to pay the amount they agreed to pay. We simply hope for an honest, fair opinion and treatment of our request by the Indians and we pledge you that we are not here to take advantage of any of the things you may reveal to us in any way, financially or otherwise detrimental to you.

CHIEF ALBERT SKENANDOAH: then explained the chairman's speech to the Oneidas in their own language.

CHIEF MARSHALL JOHN:

Mr. Chairman and gentlemen: I represent the Oneida tribe and the Nation of the Six Nations of Iroquois of New York. We thank you the and all for your courtesy and for the interest you have devoted to the Council. We have never been assembled in council before for years with State officials and in fact this is a new matter to us. But an explanation of the purpose of the mission, it puts us to thinking we never had a square deal and in fact, in my memory we never made a kick of any description for the simple reason we of the Oneidas have always been very patient relying on the white man's word that he will treat us right. But, there have been instances in the past few years where it has required the services of attorney in our case. But, I refer back in years past the Indian never had to require that. They were always open for discussions and if any tribal matters or their council matters were open for a hearing but only of recent years such matters have been done away with, which I believe was wrong, but I can't blame anything in particular than the agitation of the progress of man. The attorneys, of course, have to have their work and they perhaps saw the time when they could use the Indian question for their legal matters which would be an easy thing and therefore, our voice in council of Indian matters was destroyed; but I am not in position to tell you in about what year these things ceased. In fact, this matter has come up rather unexpectedly and we are not prepared. In fact, us Indians would not have written records of our matters and have to rely upon what we gained from older heads. Therefore, we are willing, at this day, to do the best of our ability solving the problem of the Indian question.

For I believe we have the greatest grievance of any Nation of the Iroquois League. There is a case that has been in litigation for several years, in fact the Indians were dispossessed by county officials, which we understand was illegal. At the beginning of that trouble we had representatives and we sent them to Albany to seek a redress and it took a lot of patience, work and time for to get a hearing. They weren't successful on their first trips and in fact had to beg for such a hearing. On the second trip, our representative was told to go home and bring his chiefs, several in number, before there would be any consideration of the matter. In course of time, chiefs held council and determined to send our chiefs to represent the Nation. They held council at that time with the Governor which opened the way for us people to gain a little knowledge of our right be we had a hard fight. It was really most thru friends that were willing to help the Red Man in his hardships. So, here today we are assembled to do the best we can to solve the problem and tell you in the best manner and faith we are able to do. To give you a slight insight of our grievance, we have with the state, as a tribe of Oneida Indians we have some thirty-two treaties made at various times of which I am not able to mention. I said before, we have no records or copies of those treaties and have endeavored to obtain copies but have been refused. Therefore, I can give you nothing but what you have yourselves. We have to rely on the written statements of your own hand. So, we recall the exact dates only of some. There was September 27, 1786 the substance of that our tribe will give you as best they are able explain; then September 17, 1795 both of these were within the state

New York. There were about thirty-two treaties with the State of New York. I will refer to other matters of which we have treaties. The Fish Creek, which is situated on the shores of Oneida Lake, we have treaties on that piece of land which have not been renewed for at least eighty years. As I understood the period was to be renewed every twenty years. We have never been able to find any solution of that treaty pertaining to Fish Creek claim. In the matter of education problem, we have had a school, I believe conducted by the State but not I believe for over thirty years. The Indians had to send their children to district schools of the white men whichever school was the nearest and available to attend. Therefore, what little enlightenment in education that is the only place they have been able to get or obtain it. There have been some instances, where the children attending the schools, the question arose whether they had a right to attend; but it has never been a really serious matter because they never frequented in large numbers and due to the courtesy of the people of Oneida they have never had any great trouble on this matter. Regarding the appropriation of money by the State for the Indians, we as a tribe of Oneida have never seen the benefits of any of the appropriation of state money. We do not receive any annuity from the state. The only annuity is from the Federal government of which our relations are intact. We had a mission house on our reservation which has been taken over by the white people. We used at one time to receive our annuity in that mission house. It ran along, until one year, several years back, when our chief at Five Chimneys (Alex Burning), Madison county, went for the key of the Mission house, it was denied. The trustees of the white church they upheld the key that we might not use it no more, so there is another inst

of our grievance. Also the Burial ground of our reservation, that has been lost. The white man robbed all that locality by constantly moving his fence inch by inch until in reality there is nothing practically left. The only reason why he doesn't take the whole piece is because he is a little lacking in nerve. So, I will conclude at this time and allow my other brothers to speak.

CHAIRMAN EVERETT:

In order that you may understand what this Commission is willing and anxious to do, I will say that I procured from Washington a set of the Laws and Treaties made by the United States with the Indians of the United States, in three volumes. I have five sets, and will say to you in order that you may be in possession of the official records, I will send a set to each reservation. Now, as to those made by the state of New York with the Indians. I am not able at present to say whether we have a complete set in print, but will make application to have them printed so that we can give each tribe a copy and before this Commission finishes the work, you will have ample time to examine the treaties with the United States and New York State and an opportunity to compare the records we have with the facts as you understand and know them. You will have an opportunity to know by studying those records, if you are getting just what the agreement and treaty says or whether you find yourselves divested of certain rights you felt you had. That will enable each reservation and tribe to study his own conditions and arrive at an intelligent and proper conclusion. In a haphazard sort of way, we can complain about what has been done to us. We have that with families settling estates and this is really the settling of an estate. In my opinion

in settling this question, we must treat all the Indians as Indians as it would be impossible to follow the things that happen to the different tribes and especially impossible to arrive at a conclusion if we treated one tribe different from another. But, the Indian question we should settle today is one of Indians, of all the Indians. There you have had an opportunity to study these records, I would suggest that all the tribes of the State get together and compare notes on your conclusions concerning these laws and treaties and meet with us and you will be a unit in what you think ought to be done. Briefly, my position is that the Indians, as a nation, owned this continent when the white man landed here. That while they were roving over the country in different tribes and bands, they were nevertheless a part of the great Indian Nation and that the country belonged to them as a Nation and could only be disposed of by an act of their Nation not by separate tribes or bands seeking to dispose of a part of their country to separate treaties.

CHIEF CHAPMAN SKENANDOAH:

Mr. Chairman, I believe my friend John has covered pretty nearly all the ideas you mentioned. All the ideas of the relationship of the Oneidas and the State of New York. I would like to have it a little different. One idea would be to make a picture. I would first like to have your Commission look at this as when the white man first came here; when he first came here what did he imagine in his thoughts? There is a legal status there. When he came no doubt he was surprised to see a human being like himself. Because he came thousands of miles away and nearly three months spent to reach here in those days and how much he has improved. But, the man he found looks like him, has he improved much? The Indians has tried to imitate civilization in the

way of making money; but in love of human race of men he has gained nothing. In 1609, when Hudson found his way in New York harbor on each side of the river were camps of the Indians. He planted a colony for the Dutch called Amsterdam. Then came a time, the story goes, you go into your libraries and find everything I repeat, Peter Stuyvesant, a one legged man, he had a small colony there by the Dutch; in the meantime they got busy with trading of course. They bought furs from the Indians and the Dutch subjects got quarreling. One thing probably brought on another, as all men quarrel always, as one wants the better advantage of the trade. Peter Stuyvesant realized that the Indians were great and he came up and said, "Let us hold in peace," but the Indians said, "No, we have a confederacy, a perfect government of the Iroquois." Then they gathered together, as of today, the Five original tribes and consented and smoked peace pipe which was passed to bury the hatchet. The Indian Chief said, "We will go about our way to the forest." The Indians lived up to that until Sullivan came up beyond the big river where the Mohawks lived. His one hundred men of his crew with big blunderbusses destroyed so much corn and fruit, so it must have been the fall of the year; and they skinned the Indians and made leggings of him, it is in history. Then the English conquered the Dutch but the Indians was still here, as at the first time. Now, I got to go back and state the same old thing over and over, it has been said so many times that is--that possession is nine points of law. That is the status of the Indian in New York. The Indian always had possession. He fought for the United States soldiers, I would like to have it entered in your memoranda there. But, it is your history and our tradition.

The Oneidas, as a nation, was the only nation that never fought against the "Stars and Stripes." Old Chief Schenandoah was the only one neutral until Washington won out and that is where we get our cloth. The Onondagas, Senecas and all the rest of the Five Nations divided like so many Germans and other people in this last war, they subdivided and if they didn't put clamps on it would have been worse. Now, when the kings and dukes landed, you who were the colonists or rebels whipped them by the aid of the full blooded natives, that is the status of the Indians here. I realize that your Commission knows more than we do. I heard these things when a boy and as far as our abuse you know it all. I don't see the use of repeating that stuff over. I say that if there is any such thing on the face of the earth as God given power, then the Indians ought to have the same power but it is impossible. I have travelled miles and miles, in my younger days, in nearly all the countries of the world and found it is all the same thing and whatever the quarrel is every now and then, I don't need to tell you. Whatever you recommend, Commission, when you come back, I hope you recommend some of these reservations a monument for the make of the human race. I actually believe the Indians was the first to establish independence; it is natural born in him. Go back and study the animals and you will find that the great majority cannot be confined without destroying their health. Take the turkéy, fox, raccoon, coyote and he must be independent. The white man tried it on us, the English, Dutch and French; but I don't think they ever will succeed; but that is the status of the white man to kill everybody. But, I believe that some of this Commission must belong to the Prevention of Cruelty to Animals and that is why they are here. Only to have a foothold and nine points of law, please help us!

Don't say you must have money when you help. It is only a trifle, I am saying it is only a trifle you people paid for what you got. We are satisfied. Remember, we have a few claims on the State for what abuse we have had, misunderstandings. We would like to say to you members of the Commission, use your best judgment as a committee, tell them the Oneidas said we would like to settle up and clean the slate. I am willing to be satisfied, if I had my rights and if you want to help the Indian, do away with the old way, give him election vote for the United States President. Don't you think that possible? It would be an honor for what he did to help set up your government. You cannot deny and your history cannot deny that our forefathers helped in your battles in every war you had the Oneidas helped. I don't know as I have any right to mention between National and State government, but whatever Uncle Sam says, I and the State has to comply. Of course you cannot deviate from the State any more than the Indian can from his life. A great deal of money has been spent to establish other nations as Cuba and the Philippines, for self-government. We don't want it until we get fair treatment and by working in harmony with the human race. Speaking about putting Indians on equal basis, I surmise we should become citizen's. But, as far as putting Indians on the same footing, that is impossible. God Almighty failed and so we must go on just as best we can. Here is the black race and the red and white and they always fight and will fight. I cannot say any more than you have heard. But, we do believe in our hearts we are under the protection of the Federal Government. Now, Mr. Johnson knows more about our transactions and will state it to you.

MR. JOE JOHNSON:

I am glad to have the privilege again today after stealing a few minutes from the Onondagas yesterday. I am losing about eight dollars a day while you fellows are here. You said you aren't paid for being here and I am losing too. Now, I am glad and hope that the Commission which has been appointed by the State is somewhat different than any other appointed. In the past the Commissions sent would make a flying trip, stop on the outside of the reservation and ask some Irishman about the Indians and then report on what the Irishman said. We have been held to a certain degree as a nuisance in the State. We know that statements made here have been misrepresented. In the first place, I would like to call your attention to the ~~the~~loyalness of an Indian. Of course, you fellows have heard considerable about them, but must live among them to know his nature. We have been condemned by the officials of the State, they say the Indians are dying because they don't know how to take care of themselves, that there ought to be State troopers there to prolong their lives. I don't believe it. The loyalness of the Indian was shown when the Indian sided with the white man, with the United States. In the last war when the country called for volunteers, how many of your good American citizens go forward and enlist? Very few. The only way was draft them, which is like catching a fish, did you do that with the Indians? We were not subject to any draft but volunteered. We wanted to help the government in which we lived. We were not citizens by any means and when it came to buying bonds, we went to the full extent of our pocket books. The first time

the Indian showed his loyalness to Geroge Washington, what did he do? He wrote in black and white that the Indians had the right forever, as long as the streams run to hunt and fish. He didn't say, regarding the cloth, you distribute this in installment plan, two and a half yards now and one and a half six months from now, as we get it. When I was a kid, thirty to thirty-five yards was the length for every individual. A few weeks ago, we got about two and a half yards, what we should have gotten last fall and which is supposed to come in a lump. Not only that but all these things. I say how has the Government appreciated the loyalness of the American Indians? All we ask is that the government that has control of Indian affairs, settle up the difficulties between the Indian and white man by paying up the old indebtedness. Give us what is coming and what is right and we are willing to be satisfied. That is where our turning point comes. I don't believe there is any need of changing treaties since 1784 of any description until these things are settled up. Give us what is coming to us, that is all we ask. It was customary in all business transactions between the white man and the Indian that the father of the Indian God, something greater than man, it was their custom to have all agreements read "With the will of God and the people." I believe that by the aid of the Commission we can accomplish more and more I found that somewhere we had about thirteen treaties. If the story written by a white man is true, we find that this land had been leased by the Indians to the government of the State at the time of the removal of these tribes from the Stockbridge village and I am unable to find whether that lease had expired or the government has ever settled for it. We claim that the Oneidas had more troubles than the others. The chiefs were pulling on

all different means, they got to quarreling that is how our lands were ridden of. You will find in history that the land was sold for three dollars a thousand. Another spot they got one hundred dollars for three hundred acres of land. It might have been like some of your land, but even that we consider quite valuable sometimes.

The following resolution was read--Onondaga--

"We the Onondagas of the Six Nations of New York do hereby agree that the Federal Government of Washington, D. D., to deal with the Indians of the State of New York and see that the treaties of 1795 between the Six Nations of New York State be lived up to by the Federal government. We firmly believe the State of New York has no jurisdiction over the Indians of the State of New York."

Chairman Everett inquired if the above resolution was signed by the Chiefs of the Onondaga tribe, saying, "It is not right to accept a record claiming to express the sentiments of the tribe, as it should be dated and signed by the right and proper chiefs to give it official standing." This resolution was not formally signed and is therefore not attached as an exhibit.

CHAIRMAN EVERETT:

For the purpose of getting the substance of our conference at the table on record and for the purpose of again calling your attention to the real object of this Commission and in order you may not want "to sail away" from the real hope and intention of the Commission and relative to the resolution read from the floor; the question as to what you find it is, is not of material interest to this Commission. Let me say here, we are not here to decide in this report any condition that exists between the State of New York or the United States and any of the Indian tribes. That is not our mission. We are simply here to discover and put on the record in orderly and regular form the status of

the Indians of the State of New York. Our mission is not relative to any of the Indian tribes except those living in the state of New York. We are to find out if two tribes live on one reservation and that is important. We want the history of the Indians of the State of New York and when we have that and report to the State Legislature, it will be their duty to say what the duty of the Assembly of the State of New York is relative to this question. We are just here to find out the facts about the Indians and we must write it down and if we cannot get it at this meeting, we will come back because we are writing a report and it cannot be honest and truthful unless we know the facts as you can get them for us. It is of interest to the Commission to hear complaints as that contains information relative to the status, in as concise a manner as you can put it. The resolution will be considered a legal part of our record if identified by the tribe and this is done by expression of mouth. The white man is known to say a lot of things but when asked to sign his name, he doesn't want to, for he can't get away from them then. In order to get this resolution which you offer in orderly memoranda, I would request the chiefs to sign the same.

(However, the chiefs did not follow this request of Chairman Everett)

MR. JOHNSON (ONEIDA)

The question came up to me a number of times about an Oneida living on what is known as allotted land. Now, I can't exactly state the date when the state passed a law that the Indian was exempt from taxation. The white men in Madison and Oneida counties are demanding taxes from Indian residents but also they demand dog taxes.

CHAIRMAN EVERETT:

Let me suggest right here--could you file with our Commission a special case where they attempted to collect tax on the Indians' Reservation? Will you send us a copy of such an attempt?

MR. JOHNSON:

I will try to.

MR. A. C. PARKER:

Can you mention something about the Fish Creek occupancy?

MR. JOHNSON:

I could not say briefly. Only as the old treaties which I heard my father tell. My father was a very good old friend of James Jenks who we know as an able lawyer. He learned lots of information from one claim we had against the government of the United States. We understand that the State has really no record to show about a lot of transactions about the Fish Creek. Regarding who owns it, the State claims it and we Indians claim it. We claim we have a certain number of feet or a certain length of distance around that lake. Like all other claims these claims have been worked upon and representatives sent to Albany and Washington; but have been informed they have been paid. If there is anything to discourage an Indian he always gets it.

CHAIRMAN EVERETT:

I would suggest it will not be of benefit to fuss with any treaties, etc., as a matter of record, I will see you all have the records which the state has and you compare these records and at another meeting, we will compare and go over these with you on the facts when we come here again. It is of no particular benefit to discuss at this time any particular treaty as we must treat them as a whole and want informa

before all of us whom it is taken up after careful study of each treaty and then make our conclusions part of our report.

MR. JOHNSON:

I would suggest in reference to the resolution we have, that as I surmise you intend to hold a meeting in the near future, it will give us a little time to submit more facts which I know we lack at this time and I feel we will be able to submit facts to enlighten you to clear up the differences between the Oneida Indians and the State of New York and the Federal Government. It is very important and as your time is limited, we don't care to enter into discussions unless of advantage to all concerned.

CHIEF SCHENANDOAH:

I would like to ask a question. I wish to know if a written statement can be sent to your office at a little later date, if signed properly by a person belonging to the tribe.

CHAIRMAN EVERETT:

Yes, address me at Room 310, Capitol, Albany, N.Y. at any time I shall be glad to hear from you. We will tabulate all information sent to us from the tribes until we have to make up our report. This morning I received a communication and will now ask the secretary to read the same.

SECRETARY PARKER: (Read message from Onondaga tribe as follows:)

"Mr. Chairman, I would respectfully ask the commissioners to allow Mr. Gohl, an adopted member of the Onondaga Nation, to explain what he intended the word Guardian and Ward meant to the Indian. Mr. Gohl fully understands what we intended to say in the paper submitted this afternoon.

Respectfully,
GEORGE THOMAS"

DR. EARL BATES:

We have very thoroughly gone over the matter of the relations between the State and the Oneidas and the United States and the Oneidas. The Oneidas have brought up certain grievances and facts known of treaties possessed by them. No, at Green Bay and Thames River, Canada, they have treaties. Due to an aggressive policy on the part of the White men of Madison County, who desired to occupy the Oneida reservation, a plan was developed many years ago to remove the Indians from Madison County and locate them in Wisconsin. That split the Oneidas into three or four parties, some went to Canada, some to Green Bay and others to Wisconsin where they became citizens. Some, however, believed they should remain in the lands where their forefathers lived. Now, regarding the schoolhouse referred to before; the Indian built that himself out of his timber and now the white man refuses to allow him the use of the building, they keep the key. I believe this should be looked into by this Commission. I wish to refer to the decision of Judge Ray, of the Northern District of Federal Courts. His decision will now go to the Supreme Court of the United States, which will determine legally the existing relationship of the Oneida Indians and the State of New York. Now, the secretary asked in relation to the Fish Creek claim. If the Supreme Court holds to the same opinion as Judge Ray, it is probable that the Fish Creek area will be restored to the Indians as well as the Five Chimney reservation. There is one thing I would like to ask in relation to the Old Beaver grounds of the Oneida Indians. Now, in olden days Beaver skins were the wampum. The Oneidas took over a large area in the vicinity of Forest Port which they occupied for the purpose of trapping beaver. Thru the operations of a lumber company, under a New York

State lease to cut timber, pieces of this old beaver country of the Oneidas was assumed by this lumber company. Those are the three claims of the Oneidas that the State Commission should know about. It is very probable that the State, due to the fact that the people of the State are occupying fraudulently or rightly these lands in Madison and Oneida counties, will by necessity be forced to take some action. I think the attitude of the Oneidas, this morning, has been fair and square. They met the State Commissioners on exactly the same grounds that they gave their volunteers to Washington in 1776 and in 1812 and in the Civil war also they contributed men. Certainly the Oneidas have had the worst deal of any of the Six Nations. Even after their unfailing loyalty from Revolutionary times to the date of the last war, they are a homeless people living here on the reservation of the Onondagas by invitation of the Onondaga Chiefs who gladly gave them refuge when the white man stole the Five Chimney reservation in Madison County. One reason the Oneidas are not united in council more often is because the white man has split him into factions. And, how, when the sun begins to shine for them and justice wholehanded, as it may be, it meted out by the Federal Courts, they are somewhat surprised that after all the United States and the State of New York and their white neighbors meant justice to them.

CHIEF MARSHAL JOHN:

Mr. Chairman, I think this is all we have to say at this time. We will do as we have promised, our best ability. We will try as far as possible to help you.

MR. GOHL (for Onondagas)

Mr. Chairman, regarding the resolution presented by the Onondagas

yesterday, and the letter addressed to you and read by your Secretary, Mr. Parker, this morning, they indicated their preference to deal directly with the Federal Government and in no way with the State. Now, in that they used the words "do hereby agree that the Federal Government of Washington, D. C. , be the guardian of the Indians." They do not mean the word "guardian" as the white man means, as an incompetent insane person; but they want the United States to be their protector from the white man; but in no way to control their internal affairs and deny they are wards any more than a German, Englishman or Frenchman in France is a ward of the United States. They are an independent nation and later you will receive a revised resolution with terms more in keeping with their intentions. So that the word guardian will be substituted by something more in keeping with their ideas. If I may be permitted to tell this:-while in Albany, I saw the charred remains of what the state librarian said had been the early treaties of the Indians with the State of New York, practically all the early records had been burned during that great fire in the Capitol. The same thing occurred in Harrisburg, my native town, when they wanted to cover up some investigation of the Indians and at that time I gave valuable documents myself but would never do it again if they were to be kept in the Capitol building. The Indians claim that the treaties are not binding unless signed by the same chiefs, for instance; the chief presiding always takes the name of his predecessor. So you see it was important to have the first copies in order to trace whether the later treaties had been legally signed by the proper chiefs. The Iroquois methods of protecting themselves were so remarkable that it places them as the most superior race on the globe.

CHIEF JESSE LYONS: (for the Onondagas):

I want to make remarks about the State what she done to the Indians. I want to put in your mind when you get home to Albany about the games. You cannot find any treaty made between Indians where he gave up the right to game. I don't see why the Congress, the Assembly has right to pass laws to stop the Indian going out hunting or the Indian who buys license to pay twenty-five (\$25) dollars to go hunting. We don't go hunting very often, we are not like you fellows who make a business of it. When you go hunting you are not satisfied, you got to have two or a dozen. According to all the treaties, inside or outside the reservation, we have possession of that game today. You look over the treaties, we never gave up the rights for the game. This is honest and true as I am standing here today. I don't see why justice ain't done the Indians. You couldn't say the treaties gave up the rights about the game. But, you try to grab and shovel me in jail when you haven't got justice to do it. I do believe the Indians has a right to go hunting when the season is not open but not go and make blood run down over the streets of Watertown like you see blood all over the windows like murder was there. We believe we have the right to hunt game, one two what we need. I just want to put it in your mind. I gave you chance to look over all the treaties. We never gave up our rights about the game.

MR. JOE JOHNSON (Oneidas):

I want to say something about the game. We have no reserve Oneida at the present time. I believe that twelve or fifteen years ago this game law came into effect; before we went hunting without

license. But, being a good-hearted lot of people in Oneida, a good hearted lot of Indians willing to submit to everything, we see is just and reasonable, we was told we would have to buy a license. We bought it and could go anywhere and hunt; but if we hunted on the reservation of only one acre it would be pretty small hunting. After a while the white man of Syracuse and surroundings when they wanted to go hunting went to the reservation and the Indian saw no game left for himself as the white man came and made it scarce. The Indian goes over across the line and finds he is up against it. They will not sell a state license because he is an alien, not a citizen. They said if we were citizens they could sell us a license but they could sell us an alien license. For one dollar: twenty-five cents a white man can hunt on the white man's ground. We know that a few years ago, a law was passed concerning fishing and hunting on the reservation. I say I believe it is up to the Chiefs of the Onondagas to start something about this matter. There is a law that a white man found fishing or hunting on the reservation unless accompanied by an Indian is liable to fine of \$500, and why don't the chiefs enforce it? Then the nuts, the people come out from Syracuse in their cars and get the chestnuts and walnuts and at Christmas time they come and chop down the hemlock on the reservation and the white man charges a dollar and a half or two dollars for things that cost him nothing. Oftentimes, I wished I could stop them but being an Oneida I could not. I understand that the Chiefs of the Onondagas have a right to post notices around stating the law and the penalty. Now, if the chiefs had sovereignty to enforce it, it would be only a few years before we would have all we need for ourselves. Really we have just as

much right to hunt where the white man does because our treaties reserved that right as long as the grass grows and the waters run.

DR. BATES:

They are right in their position in regard to the hunting and fishing privileges.

CHAIRMAN EVERETT:

I will say that the question of hunting and fishing is difficult to adjust under the laws we have. Now, I am chairman of the Conservation Committee of the Assembly. The Conservation Commission explain that if they gave the Indian the right to hunt and fish, carrying out the intent of the Treaties, that the Indian would destroy the ability of the state to take care of the game. I don't believe that you want to destroy the game or menace the protection of the game given by the State during certain seasons in order to protect the game, you don't want to do this by being accorded the privilege to live up to the treaty in the real original intent, do you? Think this over. But, I say it is wrong for the State to make you pay twenty-five dollars to hunt your own game. I certainly will use my best effort and influence to procure a law if you will present the case when the next Legislature convenes, so you can hunt and fish and even by granting a free license.

MR. JATRUS PIERCE (Onondaga):

I would say that the object of this Commission is to help and aid. They want you to show some light to aid them as to the facts between the United States government and the Indians and the State of New York. They have come to a point where they are powerless to control Indian affairs and want to find out what status we really possess. That is what they are aiming to do to aid us. We have spent our time hunting and

fishing, something I don't care about anyway. I often thought why the white man should give him a license to hunt on the reservations where did they get the power? I can buy fish in Syracuse for thirty cents a pound so I think it is spending time for nonsense here for we cannot subsist on game as my fathers did. I inquired of lawyers if the chiefs could enforce that law regarding the fine and they said if the chiefs posted notices but they don't seem to care for I told them about it. One night my father caught about six deer, and it was a stormy night, travelling about thirty miles from home and we couldn't go any further and so the old man said, "Turn off from the road," and we started a fire and he put me on skins and he was up all night. Those days are passed. I want to say to help the commission we want more time to answer. I want more time. What Mr. Gohl spoke about, that pretty nearly hit the top of the nail. We will look up the old treaties and then notify the chairman.

CHAIRMAN EVERETT:

It was suggested to me to name a date when we would come again. That is impossible as we would not know when you would be ready for us. So when you are ready, set down a certain date and we will try to arrange to meet at the time or as soon as possible near that date. Therefore, we will leave it with you to notify us when you are ready.

MR. GOHL:

Would it inconvenience the Commission to hold this meeting in the evening? Some of the Indians are busy all day and do not care to lay off as the time will come when they are laid off involuntarily. I should like it that way.

CHAIRMAN EVERETT:

I will say that we will hold a meeting any time that is convenient for you. We will now call this meeting closed.

TONAWANDA RESERVATION

Tonawanda Band of Seneca Indians

August 18, 1920

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PRESENT:

CHAIRMAN E. A. EVERETT of the NEW YORK INDIAN COMMISSION

ASSEMBLYMAN CHARLES D. DONOHUE, Minority Leader

ASSEMBLYMAN DE HART H. AMES

DR. R. W. HILL, Charties Department

DAVID R. HILL, Indian Representative

DR. A. C. PARKER, Education Department

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CHIEF PETER DOCTOR, President of Tonawanda Nation"

(In Indian tongue introduced the Commissioners) Sometime ago letters were received by different members of the reservation from Mr. A. C. Parker stating that on a certain time or day of the month the New York State Indian Commission would be here to meet with the people of the Tonawanda reservation, I welcome the Commission and now turn the meeting over to you to give the Indians such information you may set forth.

CHAIRMAN EVERETT:

Mr. Chairman, ladies and gentlemen of the reservation, I am chairman of the Legislative Committee appointed by the New York State Legislature to inquire into the status of the American Indian

residing in the State of New York, for the purpose of discovering whether you are subjects of the State of New York or of the United States. You are the remnants of a race which was in possession of this country when the white man came here. You have grievances against the white race because you feel you have been driven off property in a manner not in accordance with the manner in which the white man makes deals with other white men or other individuals. The reason for appointing this commission was on account of a question arising between the State of New York and the United States as to who has the legal right to control and carry out the treaties which have been made with the Indian and the white man. The Legislature of the State of New York has, from time to time, enacted laws to control the Indians living in New York state. As a matter of fact the Indians have not been counselled as to what the law should be nor given the right to vote for the men who make the laws. You are justly and rightly entitled to feel that treatment of that kind is wrong. That to make laws to control you on a reservation that has been set apart to you for consideration of giving up other territory to the State and then seek to control you by laws in which you are not counselled is not right whether the law administer a punish-

ment or hands you a donation or whatever it does, you are bound, as a human being to feel that you have been done an injury. There have been several commissions appointed to inquire into conditions of the Indians merely for the purpose of settling some special complaint at that time. Our position and our duty in this matter is one that cannot be settled by an arbitration in which you are not consulted. For, we must have from you information that will give us a clear idea, in the first place, whether you were ever the possessors of the State of New York and if you were such legal possessors how did you dispose of it and to whom and for what consideration. Now, you will not expect this Commission at one meeting or in a very short time to solve this problem, for the reason that the acts of the Indians in the disposition of territory and the making of treaties was not as a rule subjected to writing but the writing of ten treaties of the State of New York are in our possession and some of these you dispute as to accuracy and correctness. We must have the correct accurate adjustment of the matters that pertain to the conduct of affairs between the Indians and white men. I ask you for your confidence and your best effort to check these differences.. I appreciate

the fact that you have been misled by the claims some white men have made, and that you feel aggrieved due to the fact that when you got thru trading with the white man you were just a little poorer, and you attribute it to misrepresentations made by the white man. I am not here to say if you did or did not, the fact is before us that if you ever owned the entire State of New York and disposed of it for an amount that measured its value, you either wasted that unnecessarily or you have it now, or never got it. Now, that is something we must inquire into in solving this problem because the Legislature requires us to determine the status of the American Indian residing in the State of New York, that is, whether he is under the Federal or State government. The dispute has arisen between the white men, the national government and the State of New York. I believe we are paying out for the support and to carry out agreements made with the Indians something like \$150,000.00. Is that right Mr. Parker?

MR. A. C. PARKER:

Yes sir.

CHAIRMAN EVERETT:

I think the National government reimburses to about ten or twelve thousand dollars. Now, the Courts of the United States have said the Indian is

a ward of the United States government and if you are wards, and wards of the United States government, then the State Legislature commits a crime when it pays out money to you, for the law of the State requires the executive officer to only pay out money that belongs to the State for an obligation which the State contracted. For example, - The State pays me a certain salary as a member of the State Assembly and it would be a crime for the State Comptroller to pay that same amount of money to someone in Massachusetts. And the State officer paying such moneys would, under law, go to the penitentiary. This matter has arisen in the form of a judicial decision and the State Comptroller warned the Financial officials and they in turn notified the Legislature that as soon as possible they must make this discovery, reaching a determination as to the status of the American Indian residing in the State of New York and thus determine who is to pay this annuity. Thus determining if you are a ward of the United States government or if the State of New York is under legal obligation to pay you the stipulated sums that are now being paid. The way we must proceed in getting at this matter is to find out what sort of trade your forefathers made in the disposal of

the land which the white man now possesses. I am not holding out any inducement or promise that a substantial part of the State of New York will be turned back to you; but I am saying to you if it is possible for this Commission to determine the true, honest and fair relationship that should exist between the Indian and the white man, that we will make that decision, let the line come where it will and the consideration be as large as the facts warrant.

I want to correct an impression that some got at the meeting at Syracuse that is that this Commission is promising the Indians the territory that is now the city of Syracuse. I say that if your claims in the State are substantiated by the proof, that this Commission will report that it is your property and then the State should turn it over to you. I believe that in some cases the men appointed have not rendered an accurate report. Now, I don't ask you to give me your absolute confidence until you find I am worthy of it, that this commission is worthy of it and when you do, I want to say that your support and help will be of great assistance to us. If you take an attitude in which you attempt to stop us, we shall proceed just the same.

We want to learn regarding the disposal of the territory, whether you ever really owned it and what you did with it; that is, how you disposed of it to the white man. With these facts we can render a decision that will hand to you property or money if it is your due that should make you feel that the white man is a just, fair and honest person. We went across the ocean to take from Germany land which it took from France. We sent the best boys we had and you contributed the best you had to assist us. You should be American citizens, but it is not the providence of this Commission to suggest that until we have adjusted the question of the business relations which we have had with you. I shall advise against the question of citizenship. Now, I am not speaking officially but as an individual, because you are now inclined to think we are attempting to pay off an obligation by attempting to make you citizens. But, let me tell you, that this is a matter for the United States or Federal government, the State cannot make you citizens of the United States and I feel we should settle this question of business relations before considering citizenship. If you wish to ask any questions regarding the attitude and obligation of this Commission, I shall be very glad to answer any of them at any time. I think the meet-

ing is properly opened and we will proceed as at previous reservations by discussion of the subject by different members and officer of your tribe. I do not expect at this time that you will be able to furnish us with the information we require; but, that you will have to meet as a tribe and discuss this subject and gather what information individuals may have and then come to a conclusion as to what you can furnish and are willing to do and then at another meeting, for if agreeable to you, we shall come again and take up this information together. We will listen to any grievances you have against the State or the state officials; which may not relate in any manner to the subject we have to dispose of, but may inform us as to what did happen in the disposal of your property. As to how you are treated under the statutes of the State, may lead us to a consideration of the subject as to when you were put in that State and we will be very glad to receive this information.

MR. NICODEMUS BILLY: (Clerk of the tonawanda Nation)

Mr. Chairman and members of the commission, at a caucus held by members of the administration of the Tonawanda Nation and of the dominant political party. It is my wish now that the Commission or the chairman, when he sent notices out to the

different Indians telling about this coming meeting had prepared a statement such as he made verbally so that we could have had time between then and now to digest the purpose of this meeting. I realize that the question of status, which is the very thing and the most important thing that this commission is trying to determine is deep, very deep, and is not to be talked about lightly. I would ask this question at this time, "What is the intention of this commission as suggested by the chairman, are you coming back here again?"

CHAIRMAN EVERETT:

We are. Let me say for the purpose of starting the development of this case, we deemed it best to notify you as we did, as we could not very well present the case as clearly, completely or intelligently on paper as by talking to you personally. Now, you will be furnished with a copy of the things that are said here at this meeting as well as what has occurred on all the other reservations, just as soon as they are completed. Also, I am going to furnish to you a copy of the laws and Treaties of the United States with the Indians, so that you will compare them with your records or traditions, so that we can get down to a discussion of the differ-

ences that exist when we come again. Further than that, I appreciate the fact that there is a feeling among the Indians that there are too many tricks in the things the white man has done. You are entitled to be suspicious of his claims or promises. I am not saying that you are warranted, but it is the impression, I understand and that I feel to be a fact. But, if not, then you and your children should be made to understand that you are being treated justly. The truth may be hard but everybody must understand that they must stand by it. And the man or nation which refuses to heed the consequences of his act is worse than irresponsible. We must decide this question for somebody is under obligation to satisfy claims you have against the United States or the State of New York and this cannot be suspended. I want to say you have a governor now, who when this matter was suggested and there was a question of suspending the payment, said that we could not suspend the payment until the question was determined, as it would be wrong and he even signed for an appropriation of \$10000.00 for agricultural purposes to be expended on Indian boys and girls who could not pass the regents entrance examinations and wished to study this work and also I succeeded in getting

\$10000.00 to be used in purchasing property for a high school on the St. Regis reservation. He (Governor Alfred E. Smith) agreed with me that you should be supplied with educational material of which I am informed or have been informed you have been denied. And, if he should not be re-elected, why I have the same promise from the other candidate (Nathan L. Miller) for governorship of the State of New York and you know he is not going to get votes, for you cannot vote for anybody. This commission may rather lose than gain votes, for it will cost the voters of the State of New York money and you can interfere with a man's pocket book so that he will not vote for you. Now, another reason why we came instead of writing, I wanted to have the members of the commission see you and how you lived, so they might become really acquainted with the Indian problem. Now, we can only spend a short time with you; but hope that next time we come we shall stay longer and that you will place a little confidence in this Commission and believe that we are going to try to do you justice. It is our belief that a dishonest man or his child answers for his dishonesty and this is just as true of a nation as of an individual or community. This idea of yours that we have treated

you dishonestly is going to be wiped out. I believe with your intelligent, honest support, we can do this but it will depend on the accuracy of the report which we can render.

MR. NICODEMUS BILLY:

I want to add that it was stated, as a matter of talk, the advance reports were that this Commission was a junker commission. It is my honest hope that you will outlive that report and give the lie to such a thing as that. We have our hands held out asking for honest treatment and pleading for justice. Again we ask this morning for one chance, and that is to be men! We ask not for riches, money, or material things, but the freedom of the soul legally. In other lines you cannot bind or keep us down, but you have political power and in that you do hold us down. The chairman has stated that the question of citizenship is eliminated and it is rightly so. So far as it can be discussed generally, that is within the province of the Congress of the United States. I would submit a novel proposition on the question of citizenship. It is this:- Cannot the State give to the Indians within its boundries citizenship without affecting its tribal rights or without affecting the guardianship of the National government over

these Indians? I mean this, you appropriate money for schools. It is gift or good will, not an obligation, as far as I understand it. And you do other things for the Indians, out of generosity, why not, to those who want it, give the New York Indians citizenship? There is always a dispute whether we want it or not, here, as on all the other reservations. I say here we ought to have it; but I don't want to coerce anybody. There is a question, if it is right to make an Indian a citizen, if he doesn't want it; but, why shouldn't he have it if he wants it? There should be a political doorway made so that those who want can enter. I would also submit another novel proposition, which just comes to my mind listening to Mr. Everett's speech, that is - They want our consent, you are after our consent, if I get you right?

CHAIRMAN EVERETT:

Your assistance.

MR. BILLY:

I will offer this proposition to arrive at a solution of this problem. I would suggest that the State allow representatives of the Indians, say one from every reservation to sit with you in your Legislative Halls, in the same manner that territor-

ial delegates sit in Congress, who do not vote but advise on questions particularly pertaining to the territory where they come from.

DR. PARKER:

This is done by the State of Maine

MR. BILLY:

I didn't know that; but give Maine credit. Another proposition and this is one we are all agreed on this Tonawanda reservation. Letters have passed between Washington and here, thereon and that is the encroachment of the white farmers on lands of the Tonawanda reservation. The deed of the nation is held in trust by officers of the State of New York. We ask that you recommend to the Legislature that the State as trustee resurvey the reservation here so that the true lines shall once more be determined. We don't like to quarrel all the time with the white neighbors; but they are trespassing on the land.

CHAIRMAN EVERETT:

In order to keep the record orderly, I will state now, that this Commission will be glad to consider the question you suggest, regarding the Indians sitting in the Legislature. You understand we cannot and you cannot always fit every case and

condition with a law if you did one law would contradict another for conditions are so different.

The question of making you citizens and entitling you to vote would interfere with the law making a man a citizen, for when you offer to do that to practically all nations, one cannot be done under different conditions from another and we would be in a serious trouble if we allowed each state to provide a law for naturalization, regardless of the United States, for then the United States would have no control over United States offices.

MR. A. C. Parker:

But Mr. Chairman, this is done by five or six states of the Union.

CHAIRMAN EVERETT:

I think we can dispose of this more satisfactorily if we make you a voter of the United States but let me say to--Forget that until we settle your status. Let us know what the business relationships have been with you from the foundation up and then you can come into the United States as citizens feeling you are not coming in as outraged individuals but come as an equal; then you won't come in as members of a country that has been stolen from you; but if settled on facts and justice, it will

be adopted by each state in the Union. I don't believe that the United States can afford to do you an injury. What has been done to people in time of peace cost the United States \$20,000,000.00. The difficulties that lead up to that war were done in times of peace; the result of officials doing the damage in times of peace and then war comes and they sit at home and let the other fellows go and fight it out. The fight doesn't do any good but satisfy an

condition that can only be relieved in that way. We have animal condition that can only be relieved in that way. We have had our fights with you; but I didn't loose my hair in that fight or my recollection of what it was or my disposition to do justice to you. We want to hear your complaints and history of this tribe, of the exact things that happened between the Indian and the white man. I believe that when we have printed it, disregarding what the amount is or the sacrifice to the white man, you will be dealt with justly and satisfied with your deal with the white man. Don't build up your hopes for millions, I am only promising actual justice and I must have the facts.

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Here Mr. Chester Sky desired an interpreter to translate into Indian tongue what had been said

between the Indians and the Commission thus far and this was done by Chief Peter Doctor, who explained the import of Chairman Everett's remarks, stating that the meeting is a preliminary one and asking for information concerning the history of the Indians from the time of the first white man's sailing up the Hudson River and that he will use this information in a report that will seek to bring them justice.

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CHIEF PETER DOCTOR addressing Chairman Everett:

Mr. Sky wants to know about these moneys appropriated by the State of New York; at those request is it that the money is appropriated, from the Indians or the Legislature itself?

CHAIRMAN EVERETT:

A part of the money expended is from treaties made between the Indians and the State of New York and the other appropriations are made by the good will of the Legislature, for the purpose of educating or enforcing attendance at school. Here, we have with us Dr. R. W. Hill, who represents the Charities Department, which expends from twelve to fifteen thousand dollars a year depending on the number of Indians in want, so that when requests come

in, he looks after them out of this appropriation from the State. The total amount expended, yearly, is about \$150,000.00.

If a foreigner comes here, we educate him in the public schools but this cannot be done with the Indian, for he is off by himself on his reservation, therefore, we appropriate about \$26,000.00 for special schools and teachers on the Indian reservations. This is an expense freely incurred by the State; but with this present Court decision, it would have to be taken care of by the United States or stopped, if they adopt that policy or if the Indian is a ward of the United States than that government has their guardianship. Now, if you are a ward, then the United States government has been handling your property and you are entitled to an accounting. It is not what your guardian sees fit to let you have; but what the estate has earned for you that you should know. We are representatives of the State and must determine, for the people of the State, whether we are obligated or the United States. I might illustrate and carry it to your minds by giving you the result of the decision. In Oneida, several years ago, an Indian, in possession of land belonging to the reservation, mortgaged part of the land to a white man. You understand what that meant?

He pledged the title of the land in payment of the money which he borrowed and if the Indian did not repay the money, why the land would then belong to the white man; but, if the Indian offered a mortgage on land that did not belong to him, why then that security would be of no effect. It might take a court's decision to find that out, but if it was determined that the land he attempted to mortgage was not really his, why then the mortgage would have no value and the land would be returned to the owner. Now, the Indian mortgaged this land under the law and by and according to the law of the State of New York. After he failed to pay the interest or money back, why the white man started proceedings in court, known as Foreclosure Proceedings. The Sheriff is then given an order by the Court to sell the property. This was done and the property sold at public auction and a white man bought it and the Sheriff gave him a deed to the property and the white man took possession of the same. Now, the Indian thru his attorneys took the case before the United States Court and Judge Ray wrote the opinion. He held that the State Court had no jurisdiction because the land which the Indian mortgaged was not his to dispose of without consent of the United States government

so he rendered a decision that the mortgaging of the property did not affect the title and therefore the white man must be put off and the Indian reinstated, and this was done. The white man appealed the case and the Appellate Division examined Judge Ray's opinion and said to the white man.- "You took a lien on a piece of property and the man who gave it to you couldn't give it to you as under a treaty with the United States and the Indians it was written that the Indians could not dispose of land without the consent of the United States and in order to make it legal you should have obtained the consent of the United States and in order to make it legal you should have obtained the consent of Congress in the pledging of the property, but this you did not do."

In the decision the question of who is your guardian came up and the Court decided that the United States is the guardian of the Indians residing in the State of New York.

The Comptroller of the State took what is known as judicial cognizance of this fact and said to the Legislature,- "If they are wards of the United States, we must not pay out any more money. The United States must pay it."

If it costs \$150,000.00 to support and care for the Indians in New York State, why then the Federal government must assume this obligation and the state of New York would simply contribute its share of the money.

This is why your status must be determined; in order to find out just how you stand with the United States. Now, this really isn't your fight; but your conduct and relationship with the United States must be established. In coming to an accurate position with the United States, you may be seriously affected or not at all. If every trade made between your ancestors and the white man is one in which you cannot find any fault, then your relationship and existence and rights in property will be as now.

I will suggest one thing to:- How many are there here that can tell the date when you came and located in this particular place, what tribe it was; what were the names of the Chiefs when you first came on this reservation and what interest did you dispose of, if any, in other parts of the State when you came here? These are facts we must find out because somebody says,- "We don't owe the Indians anything, we should cease to pay them any further

annuities." Now, two years ago an Indian Chief came to Albany and presented a claim for about \$80,000.00 and had some proof to the effect that in 1835 or about that time, the white man ceased to pay an annuity paid until that time and so the accumulations had reached about \$80,000.00 or \$90,000.00. Last year a bill was passed thru the Houses and went to the Governor for signature. The governor vetoed it and sent a memorandum to me requesting me to find out if the State owed that money or if it had been paid, as there being an Indian Commission, he thought the payment should be deferred until we found that out. I want that information or any written documents or tell me the names of the Chiefs who first located on this reservation and why they came and what they released when this was set apart for them.

MR. NICODEMUS BILLY:

We might as well tell you before going further, we cannot.

DR. A. C. PARKER:

If I may suggest an inquiry on the part of the Tonawandas who desire to answer that:
This land between the Genesee River and Lake Erie was conquered by the Five Nations from the Eries and Neutral Indians about 1651 and held as a hunting

ground for the Five Nations, until about the time of the Revolutionary War. Most of the Senecas had their villages east of the Genesee River and a few west. The Tonawanda trail between the Seneca village and the west, Lake Erie, was a common highway, between Aurora, Caledonia and LeRoy, the route over which we travelled between Rochester and where we are today. With Sullivan's destructive reign the Seneca country, the Indian villages were destroyed and the crops laid to waste. The Onondagas, Cayugas and Senecas fled to Fort Niagara. Then thru the Ogden Land Company's desire to obtain the title to this land, the council fire of the Five Nations was said to be relighted on the Buffalo Creek tract. After the Revolutionary War a certain number of the Iroquois fled to Canada under Capt. Jos. Brant. In 1812 the Five Nations marched shoulder to shoulder with the American forces to repell the invaders and in the Civil War a great many of the Indians fought for the Union. The Chiefs then bore the names that they bear today, the Sachems of the Senecas who were members of the Seneca Council which was in turn a member of the Iroquois Confederacy. In 1838, the Ogden Land Company in an effort to extinguish the Indian title induced a few chiefs of the Alleghany

and Carraraugus tract to sign a treaty and they got a few chiefs of the Senecas who were either bought or filled with liquor or drugged. The Treaty of Buffalo Creek in 1838 was therefore signed without the Authority of the Sachems of the Seneca Nation and this is the way the Ogden Land Company obtained the land in western New York belonging to the Senecas. It was done in direct contradiction to the instructions of the Legislature which said that the signatures must be obtained in Council. The Tonawandas had no representative who signed this treaty and they lost all of their land. Finally the Indians thru the help of the Quakers protested and an amended Treaty of Buffalo Creek was made in 1848, giving to the Senecas, Alleghany and Cattaraugus reservation, the Ogden Land Company retaining preemptive right. The Tonawandas, however, had nothing, according to the treaty of 1838, except certain land in the west arranged for by treaty. By an agreement with the United States, the Tonawandas then released their claim upon the western land and bought back part of their original reservation which had been seized by the Ogden Land Company for little or nothing. This was rebought by the tonawandas for about \$20 an acre, which is the land they now occupy. If this suggests any line of thought or any light on the subject, I

shall be very glad.

MR. NICODEMUS BILLY:

I may add the sale of the land of the Tonawandas was about at the rate of one cent an acre and they gave the Ogden Land Company twenty dollars more or less an acre to get it back when their Chiefs had never relinquished the land.

MR. BILLY:

Mr. Chairman, as I understand it, you are here asking for help to solve the status of the New York State Indians, to produce evidence on the order of what Mr. Parker has just discussed, and help determine the status of the New York Indians as to property; may I ask whether it is the intent of the Commission, if in case it was decided the State did not have the jurisdiction, would the State attempted to get it by asking Congress for it?

CHAIRMAN EVERETT:

In reply I would say it has been suggested to the Committee by the Indian Commission at Washington, that even if it should be determined that the jurisdiction lay in the State that it might be best to have a law enacted turning the New York State Indians over the State, as they said we are closer and could easier adjust matters arising better possibly than someone having an office in

Washington. I think that would be the result of a decision, providing the American Indians in the state of New York were subjects of the United States and not of the State, at least that is the desire or suggestion of the officials at Washington.

MR. BILLY:

Then the aim of the State is to acquire complete jurisdiction over the New York State Indians by one means or another?

CHAIRMAN EVERETT:

No, the object is to find the business relations that existed between the white man and the Indian. That means their business relations and their governmental relations that do exist or have existed between the Indian and the whiteman: the Indian as a man with a nation, a nationality, a man with a country. Let me say to you, eminent authorities on law and legislation have stated that the defining of the Indian has not reached a point where you can say he is a man with a nationality, a man with a nation or of a nation. In fact, for a person to be naturalized the law recognizes that you renounce the nation of which you have been a resident, so he can't become a citizen as he has no country to renounce.

DR. HILL:

This Commission is authorized to determine the status of the Indians of New York State and confer with Congress thereon, has in view in the conferences being held on the several reservations the accumulation of such information as will enable it the better to understand the actual conditions under which the Indians of the State are now living. The word status is simply another word for standing and therefore the human elements of the problem of the Indian's status are of exceeding importance to this Commission. Above all other things, it is essential that we shall know how the Indian is affected by his present status; how as an Indian he stands among the white people and reacts upon them. The human element more than all else must appeal to us and the people of the State of New York, in the final settlement which must be arrived at by the work to be done by this Commission. This standing or status directly affects every individual Indian in the State. It relates to the Indian as he approaches his white neighbor: as he proposes to do the things he deems essential to his comfort. It affects him as he enters into the marriage relation, and as he looks on his child to determine what his future should be. It affects him from the cradle to the grave

and after the grave passes on to his children and his children's children the things he deems most important to his welfare. Therefore, when we consider what is the status, we want some information about these things as they affect you and how they should be met and how, in your opinion, it should be done, so that we may intelligently consider the matter and in the end formulate a statement which will clearly define your status and present a reasonable and just method of solving the perplexities of the problem of the Indians of New York State. For that reason we are asking the services and the intelligence of the people here represented by you.

ASSEMBLYMAN AMES:

As a matter of further statement, would it not be well to hold a general meeting of the various tribes in the future and all consider the matter together and then report to us?

CHAIRMAN EVERETT:

I will say that at our meeting at Onondaga, there was submitted a request that our determination be a recommendation that the Indians remain and be under the United States authority and control. I don't know that I care to influence your decision but make this statement as to what was done there.

You make your decisions from the facts as you see fit. For, the question as to whether we recommend the United States to take charge of the Indians or not doesn't amount to that (snapping his fingers.) It is a question of the contract made by somebody. If Jones contracted to do it, I can't wish it on Smith by a report I make. If the United States government was the party to the treaties made or if New York State made treaties prior to the United States government being formed, and then handed them over to the United States government when it entered the compact with the United States, then the treaties become the obligation of the United States provided that was the provision in the compact between the State of New York and the United states. We are powerless to say who shall take this. We shall recommend who must take it, whose obligation it is and also we will determine if we think the Indian is a ward or an independent human being making trades and not subject to the guardianship of anybody. After we have gone over all the reservations and taken this subject up as with you, then before the final determination, we shall expect to have a combined meeting of all the tribes of the State to determine what the facts are as combined into one Indian problem of the Indians of New York State. We shall not write

a report deciding so far as we can decide or recommending so far as we can recommend, until after each Indian tribe has an opportunity to confer with all the other tribes. I don't believe it can be determined by conditions on one reservation, the subject reaches back farther because it takes in all the Indians and no particular Indian. So, we shall not decide this question until you have an opportunity to confer with all the Indians and at that time, if you see fit to request any particular state or the Nation to be your guardian, I don't think there will be any question on the part of the Commission to comply with your request at that time.

MR. BILLY:

A closing word to the Commission, I urge that the disposal of the matter be as quick as possible because we are forever in a state of unrest on the reservations, not knowing where we stand and would like to know; then when we feel that the load of uncertainty has been taken off our minds, we can go on our way to attain our true place in the body politic of the Nation. Therefore, I would urge that the disposal of this be as hasty as possible and make clear to the Tonawanda people (as we understood that the purpose of this Commission was to make us citizens), make it clear that that is not your ob-

ject. And to the Indians, let me say--We can help this Commission, let us do it. Let us get together for once and help them for if we don't they will proceed without our help. Therefore, give them moral support which is due a Commission of this character.

CHAIRMAN EVERETT:

I want to clear what appears to be a misunderstanding of my remarks, when I referred to the Indian as a ward, I meant that some people remarked that the Indian was not the owner of the property. My own opinion is that the Indian was the owner as much as any people and the fact that you didn't till the soil and stay there all the time is no legal reason why you are not the owners and I thought that my remarks that William Penn bought all the land and paid for the title expressed my idea that he got a title and that it was a good title from the Indians. As I have previously explained we are not here to advocate citizenship, that matter may come up later.

The meeting here adjourned, subject to the call of the Commission.

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TUSCARORA RESERVATION

August 19, 1920

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PRESENT:

HON. E. A. EVERETT
HON. CHARLES D. DONOHUE
DR. R. W. HILL
DR. A. C. PARKER
HON. DAVID R. HILL

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CHIEF GRANT MR. PLEASANT:

Introduced the Commission by a speech in the Indian tongue but it was not translated.

CHAIRMAN EVERETT:

The object of the calling of the meeting is for the purpose of explaining to you the duty of the Commission of which I am chairman. A decision of the United States Court is that the Indians of New York State are wards of the United States. This decision was rendered because of foreclosure proceedings in the sale of a piece of Indian property which had been conducted by the state Court. Now, in order that you may thoroughly understand, this is the case: --In Oneida an Indian having a house and land in his possession, mortgaged it to a white man for a certain amount of money. You probably are familiar with what is meant by mortgage. It is a conditional sale

of property. The condition being that if you don't pay the money loaned the man can sell the property and take his money out of that. It is a court proceeding and provided by the statute it must be conducted by a court having jurisdiction to handle the case. The state sheriff sold the property of the Indian, put him off and the white man took possession of the land. Now, the Indian appealed to the United States court and Judge Ray rendered a decision that the court of the state which foreclosed the mortgage had no jurisdiction because a treaty with the Indians provided that the Indians could not sell their property without the consent of the United States and therefore that court reinstated the Indian on the property and the white man lost his money. That case is on appeal to the United States Supreme court. At the time this decision was made the judge stated that the United States was guardian of the Indians and the Indian was a ward of the United States. Therefore, the Comptroller of New York State stated if that were true he had no authority to pay money to the Indians of the state as the United States must do that. That being the case and the State of New York having obligated itself by statute to pay money to the Indians, this Commission was created

to inquire what your status is. To explain the word status, it is the state of business and governmental relationship which you sustain to the State of New York, rather a relationship between the United States and the several reservations of the State and of the State with the several reservations of the State. We have certain written statutes or treaties and laws that have been passed to control the Indians, some of these are disputed when presented to the Indian tribes on the reservations as they claim they are not as understood as they should be. At St. Regis they have complained that the treaty copies they have different from what are on file in Albany. They say,- "We didn't make that trade or understand it that way."

We are not here to succeed in getting a statute established which you don't think right and proper. We are here to sit down and talk with you and ask you to furnish any information in your possession or which you can succeed in getting in order to help us find the truth of the trades and treaties made with the Indians in the State when the white man came. We don't expect that today and we know you are suspicious of us because you say that every time you had a trade with a white man in the State

or country when you got thru he had done you out of a little more. I am not saying it is true or not true; but do say this Commission wants to deal fair and honestly with you and make a report that will truly, honestly and fairly state the transactions you had with the white man and go back as far as possible to the original treaties between you and the white man who first came here. If you won't help us, then we shall proceed and get what information we can as best we can. I don't think it is the duty of this Commission to promise anything; but it is our duty to say that what you are entitled to this Commission will report you should have. The work status applied to a case that the proof, evidence and history has passed as long as this has run is very difficult. It is very difficult to establish to your satisfaction because you, as a nation, don't preserve your records of trades² as the white man does by written instruments and therefore your traditions which have been handed down to you by your fathers and grandfathers may be of importance in furnishing facts on which we can make this decision.

We shall be glad to come back after you have an opportunity to make inquiries for these facts and we will furnish you with copies of the Laws and

Treaties of the United States with the Indians, in three volumes, which you can take and study and compare the treaties in these books with what you understand they should be and with what written documents you have. That briefly is our mission and the statement fairly covers what our duty is to the State and the Nation and to you. We will be glad to listen to any statements, discussions or questions you wish to ask.

The newspapers have reported that you was a commission to try to induce the Indians to consent or apply for citizenship.

CHAIRMAN EVERETT:

The State has no authority to create citizenship of any kind. This is the duty of the United States. It is no part of our duty and never stated as such by us. However, if as an individual, not speaking for the Commission, I should be asked my advice by the Indians regarding citizenship, I should say that until your status has been established, I wouldn't apply for citizenship. Be sure you are satisfied with the form of government of which you are to become a citizen before you ask for that citizenship. So, you can deny the statement that we are advocating citizenship. As soon as the minutes

from all the reservations are completed, we will send copies of all the meetings to each reservation so that all the tribes may know what is being done by each tribe. Then you can see if you can furnish us with any information which we haven't in our report. After this has been done, I propose to hold conferences with all the tribes or representatives from all the tribes and at some center point at this time we will go over the entire subject before the Commission makes a report to the Legislature. So, you will have the satisfaction of knowing that one Indian Commission didn't make a report before every fact was discussed in open meeting and every body had an opportunity to express his opinion, whether the findings were facts or something said by someone who didn't know. We want this report a final decision of the Indian question of this State.

CHIEF GRANT MR. PLEASANT:

Didn't you just find out that the State had no jurisdiction over the tribal lands?

CHAIRMAN EVERETT:

I think this is the first time the question has been brought up in a judicial decision of the relationship of the Indians to the state. A great many times questions have arisen; but not of

this nature. For your information, I will state that before the State became a part of the United States, the colonists of New York made treaties with the Indians. There is a question as to whether the United States, when the State of New York became a part of the United States, assumed the obligations that the State had taken on itself in its treaties and trades. That is a legal question. Did the United States assume to carry out the obligations of the state and did they take the responsibility from the State as a matter of law? The United States Attorney General and the Attorney General of the State of New York will meet, when the facts are prepared (that is the history between the white man and the Indian as completely as we can get it) and confer together and give an opinion as to who assumes and must carry out the obligation.

CHIEF GRANT MT. PLEASANT:

What I have heard and read of the Indian land question, it happened here in 1840 on the Tuscarora reservation (when the Ogden Land Company bought the land from the Seneca nation in 1838 but the Tuscaroras had not signed the deed) then the Ogden Land Company sold to some white men and he said "Get out I bought this land." But the Indians said, "No, I shan't get out." At that time it provided

the Tuscaroras had to get out in five years but the white man got beat on this question. The Supreme Court of the United States - Blacksmith vs Fellows- it was decided the State had no jurisdiction to send the sheriff to oust the Indian and in that case he went back by the authority of the United States government. I should think if they are seeking jurisdiction, that ought to come up at this time, the question what is up now. That should cover all cases about jurisdiction. Tell me why the State has just woke up about the authority.

CHAIRMAN EVERETT"

This decision went further than anything in the title of land. The Justice stated that the Indian was an alien (which means he is an individual residing in a country of which he is not a native) also the Judge stated that the Indian never disposed of his right to self-government; while in the third paragraph he stated that the Indian is a ward of the United States. This is what caused the creation of this Commission to determine if the Indian is a ward of the United States. If the Court had not gone so far as to say that he is a ward, we might not have been in any difficulty to carry on the appropriations as we always have done. My opinion is that the fault in the title of this mortgage

was due to the fact that the land was owned by the entire tribe and not by an individual member. Like a family of ten children and the father or mother dies, - now, if a child wanted to sell his property, each one of the other children must sign the deed or mortgage or whatever the legal papers must be. However, in the Court case referred to above, only the Indian in actual possession of the property signed the mortgage whereas the treaty with the United States provides that the United States government must consent to the disposal of any land by the Indian and they should have signed and consented to his making the mortgage to the white man. Your question is one of title, who owns the fee? If the consent of the United States was necessary you would have to say the title was practically lodged in the United States for if a man owns the fee in property, he wouldn't need the consent of anyone to sell it. The decision raised the question of the State of New York doing anything on account of the fact that the Indian was declared under the supervision, care and control of the United States and this is the first time this question has been raised.

CHIEF GRANT MT. PLEASANT:

Do you want to establish that the State has the sole jurisdiction or the Federal government?

CHAIRMAN EVERETT:

The fact as to which one does is what we must learn. We are not here wanting the United States or the State to control. We must find out which one does.

CHIEF MT. PLEASANT:

Do you think the Indian could tell?

CHAIRMAN EVERETT:

I don't know, the records between the white man and the Indian must determine this.

MR. JACK:

We are under the protection of the State of New York as well as of the United States. We don't want to be deprived of one party, we want to be fair.

CHAIRMAN EVERETT:

I don't say that the decision just quoted as rendered by Judge Ray is final; but, when a United State Court makes a decision it supercedes all other court decisions. We can go from one court to another until we get to the highest and last court, the Supreme Court of the United States. We must abide by the decision of the last one. So, in this case, while not yet decided by the highest court of the United States, the decision is law until the courts change it. The State court cannot change it. If

the State wanted to it could take advantage of the condition as it now exists and say,- "We can't appropriate any more money for the Indians," but the State is not satisfied with that and created this Commission and we are making an inquiry to find out if the treaties made by the State of New York with the Indians and the obligations have been wiped out by the State of New York changing itself from its original form of colony to a State of the Union and thereby carrying the obligation to the United States. This determines if the Federal government or the State of New York must settle for the treaties and obligations. A great many of the treaties now carried out with the Indians were made between the Indians and the people of the colony before it became a part of the United States. I understand that there are reservations that were much larger according to the remembrance and records of the Indians and without any sufficient knowledge on the part of the Indians as to why it was done, why part of the reservation was taken away. There are a great many parcels of land in the State, the title of which is disputed on the ground that the Indian never disposed of it. There arises the question as to whether the Indian ever had a title and this Committee will try to settle that matter.

CHIEF MT. PLEASANT:

You say this decision will be carried finally to Supreme Court?

CHAIRMAN EVERETT:

The man who held the mortgage that the decision determined he couldn't hold, will carry the case to the highest Federal Court, because he has been deprived of his money and property was sold and a deed obtained thru the State Courts and the money obtained; but the United States Court gave the money back to the Indian and the white man is out his money.

CHIEF MT. PLEASANT:

Then I don't know what we could do, I am sure. You are the law makers and study these matters thoroughly so you must already know the status. We can't give you any information, we have to just listen to the decisions of the Courts. I understand that the State authorities are not satisfied with the decision of the Fish case when the Judge decided the Indians were aliens and the people are not satisfied. But it won't help us we have to take it because the Supreme Court of the United States is the supreme power of all the State and the United States law. What can we do? We have got to be satisfied that is all.

ASSEMBLYMAN EVERETT:

We will furnish you with copies of the laws which we have and also with copies of the Minutes taken at the different reservations. If you can't give us anything further than what we have, why, then we must be satisfied but if you find that you have some knowledge which we haven't, we shall be glad to receive it.

CHIEF MT. PLEASANT:

The Indians here are very much satisfied with you white people, the way you educate etc. and we thank you very much. The day school was here as far as I remember, away back and you did that of your own free will. The Legislature that passed the appropriation, they must know why they did it. And now the question comes whether they have a right to do it or not? I understand it is the Comptroller; but I don't understand why other comptrollers didn't object, that is something of a kind of mystery.

CHAIRMAN EVERETT:

As I stated, it is because of this decision of this Oneida case, the Fish case started it but the Oneida continued it to the effect that the Indian was a ward of the United States.

CHIEF MT. PLEASANT:

Was there such a decision in 1840 or 1850 that the Indian was a ward of the government or the government a guardian of the Indian?

CHAIRMAN EVERETT:

I could not answer that question right here. However, there is no record of a case in a form so positive as in the Oneida foreclosure proceedings.

MR. PEMBERTON:

We need a great deal of help from the white folks and the Legislature and have all the laws given to us, but don't use it right. It gives us a good deal of trouble, the laws of the United States and the State in certain things you differ. We need protection from the United States to advise by ruling to protect the timber land, and to deal among the white folks on the square. We hold on the Federal jurisdiction, I would like to see this question settled. The deed to our land reads where the jurisdiction comes, - in the first place (read copy of deed). Now, we don't know where the jurisdiction lies and am glad you come here now and you will be treated right. Before we come into State jurisdiction I want Congress to tell me we are no more under the protection of Congress and that the State law would have the jurisdiction. We ask the State

Legislature to give us good protection and protect our wood. We live because we love one another and abide as near as we can by authority. The way you speak you are willing to help as much as you can for the Tuscarora reservation and we need your help to protect our woods. I hope God will bless you for your interest in this reservation. We appeal to you to intercede for us and we would be thankful and we want Congress to say that they will pass a bill to give us a good deal before they pass us over to the State.

MR. GANSWORTH:

Does this Commission know, has it an idea what relationship there is between our people here, between the State and Federal government? You have an idea haven't you? I don't believe we all know and you said we are not under State protection and ruling and the appropriation it ceases towards the Indians.

CHAIRMAN EVERETT:

I did not say it would cease. I believe the money paid is the result of treaties and agreements made with the Indians before the State of New York became a part of the United States and some have been made since that time. In fact, I secured an appropriation of \$10,000 to assist in promoting

agriculture on the reservation, at the time the question of our right to pay money was up. I went to the Governor, the Hon. A. E. Smith, and said that just because there was a dispute was no reason why we should cease to perform our duties just because we did not know which government was liable. We paid \$20000 more this year than a year ago, so you see there is no disposition to stop the benefits or expenditures being made for the benefit of the Indians; but expect that they will be more rather than less. I advocate the necessity of placing a high school on every reservation supported by the State and regret to some extent the treatment given by the Educational Department. I do not think they have been according the Indian child the same advantages as the white child. They tried to enforce the compulsory education act where the teachers and environment was not right. I understand that the fourth grade is as far as any of the schools on the reservations provide for the education of the Indian. Governor Smith stated his willingness to assist me along lines for the betterment of the Indians and although he is a Democrat and I am a Republican, he is a good, honest and square man and said if I would recommend appropriations, he would sign the bill.

I took this matter up with the Republican nominee for Governor, Mr. Nathan Miller, and he also said he would certainly support such measures for the betterment of the Indians. This Commission is not framing an excuse to cut off your appropriation. If we find that further money is necessary we shall certainly recommend it.

ELI JOHNSON:

Now, about the Carlisle School, only a few were permitted to enter from here. A few Senecas, about four, and two from here at first and sometime after the question comes up to shut out the New York Indians and they say we cannot go as it is closed and other government schools are and they say New York State is rich enough to take care of their Indians. I am glad what I heard this afternoon as you say you will have one school at St. Regis. Our Superintendent was here sometime ago from Rochester and came here on his trip and asked our people to give a statement what we want and I asked this myself. I know about what he wants he wanted us to say we wanted citizenship. I ask here I want to see a school put up on the reservation where the children get more than they do now and a high school. They try to enforce that compulsory law. But we have a few troubles, for when hard times come along and

a man has a lot of children or is sick or lives so far from the school that when it is below zero weather they can't go or they are not strong and so excusable. You say you place a high school on every reservation, it would be the best thing the Indian ever got from New York State. We need higher education and I believe in twenty-five years they may be citizens; as it took the white people a great many years to be that way. We are backward but now we begin to see what is in civilization and I believe it will take time for us to learn the ways and laws thru education. Give us higher education as our schools are not sufficient here. If we had a grade-school to learn more and are able to send the children to high school if we can all the better. I believe we can get the living of civilization life and understand the ways of the white man more thru schools. We get no help like money from the government only what the State gives us to carry on the schools to the fourth or maybe fifth grade. I believe these things are essential and if we had these opportunities offered us we would try. I say we struggle along and it does us good to help us and the State is building roads and we appreciate the help they give and I wish it was completed. Another

thing that came up about the Indians being aliens, that doesn't sound good to me. We stood by Uncle Sam always and willing to stand by the flag and I am sorry we have to pay \$10 for hunting, we are not foreigners, we are citizens, as much as anybody else. We farm and put out orchards and go to market and it comes back to the citizens. We are small here, we had a large country and now it is small. We appreciate everything and are taking advantage of what we can. I do not know much about these regulations of the State and Federal government and would like to know more about it.

CHAIRMAN EVERETT:

I think we have given you an idea of what we have to do and what we would like to do and when you have thought the matters over and remember something to help us get the history of the Indians that is what we must have and then we would like to hear from you with such statements, when the first treaties were made and if there was a change, if it was made by the proper authorities. We doubt the validity of treaties made by drunken Indians and some white men. If later you consent to accept citizenship you want to know that the government you consent to support did not rob you and that the present

government is sorry if they did and is willing to pay back what was taken without consideration from your forefather. The spirit of these times is to do justice to your neighbor. You die and no matter how much you had you will leave it all here. The white man doesn't want to leave a reputation that he robbed the Indians and if the government has done it they are going to quit. If you don't believe I am in earnest, wait until you find out. I am ready to say that if I am lying don't you ever believe anybody in the future.

MR. _____

Is the high school you intend to build to be conducted by the State?

CHAIRMAN EVERETT:

There will be one high school in the village of Hogansburg where there was none. The Education Department thinks of trying to let the white and Indian children go to the same school; but can change the policy anytime. They will graduate from the same courses as in any high school in the State and they are going to teach all the trades and those trades peculiar to the Indians such as basket making, etc. and then for the agricultural course that will be furnished under State expense. If this works

out at St. Regis, and is approved by the Indians, the policy will be applied to all the reservations in the State; so you will not be restricted to Carlisle and then you can go to any college in the United States. It is a shame that they have as a rule only carried the Indians to the fourth grade and that will be stopped and I have served the management notice to that effect.

MR. GANSWORTH:

We think you are in earnest and trying to help the Indians. Have you ever seen the treaties giving the Indian the right to hunt and fish as long as the grass grows and the rivers flow? The white man makes laws to devest the Indian of hunting on his own reservation and they can go on the reservation and catch fish; but Indians they say get out of here and could that be remedied? The alien, they call the Indian as that and when he buys a license it costs \$10 like an Italien, Pollock or some other foreigner not born here. They buy a license and shoot robbins and if you are interested in the Indian and could straighten that out I would like to see the Indian have that treaty carried out.

CHAIRMAN EVERETT:

I will say that I am Chairman of Conserva-

tion Committee of the Assembly, having charge of the game and water power. I expect to go back to the Legislature and will say I will do my best to see that the law is changed so that the Indian buys a license as anybody else a resident of this State. It is an outrage, I think to the construction of the law. I pledge you my support to get a license as to your right to hunt and fish as reserved by the Indians in their treaties. However, don't you think that if you lived right up to the original wording the treaty that a certain class of white men would persuade certain Indians to catch game at all times and sell it which would soon deplete the game and fish unless there was a certain closed season. You think this matter over carefully and see if you would not rather recognize a closed season. But it is an outrage to refuse to give the man who inherited from his forefathers the exclusive right to hunt and fish a license the same as any citizen of the State and charge him as you would a foreigner. I can't pledge myself to right everything that has been done wrong but will do my best to correct that outrage of charging you as for a foreigner. You see on the St. Regis by not recognizing a closed season they have practically wiped out the sturgeon and bass in that loca-

lity and the benefit has gone to the fish dealers in Boston.

MR. PEMBERTON:

We are much interested in education and civilization and how much the Congress paid for the Tuscarora tribe of Indians.

CHAIRMAN EVERETT:

It is all paid by the State of New York.

MR. JACK:

What is the substance of the Agricultural law?

CHAIRMAN EVERETT:

That is in connection with the Education Department. If they do here and at other reservations as they are planning at St. Regis, they will put vocational schools in connection with the high school to study agriculture, carpentry, machinery and for the girls domestic science as in the normal schools. The duties of the Agricultural Department will be under the supervision of Mr. Wilson of the Education Department.

MR. FRANKLIN:

What is the tuition for the Indian attending the high school at St. Regis?

CHAIRMAN EVERETT:

There is no tuition.

MR. FRANKLIN:

Could it be arranged in some way that the Indian attending the high school at Niagara could be free tuition for the Tuscaroras?

CHAIRMAN EVERETT:

We have no free school yet to fit the child on this reservation.

MR. FRANKLIN:

My boys graduated here at the grade school and it seems to me that if you are trying to help the Indian, I would be glad to have my boy go free to high school. They want \$10 a term.

CHAIRMAN EVERETT:

If you pay \$10 a term that is about a quarter of the cost of teaching a child. There is no law providing for sending any nation to our high schools without tuition. I think the question of tuition will be wiped out in a few years. I think it costs the State around \$60 a year for each child possibly nearer \$90.

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Mr. Gansworth complained about the cost and distance that the children have to travel to get to school.

CHAIRMAN EVERETT:

We thank you for your attendance and at-

tention and hope we will have your cooperation and support and that you will be able to give us some definite information when we come again and now will call this meeting adjourned.

CATTARAUGUS RESERVATION

SENECA TRIBE

August 23, 1920

PRESENT:

HON. E. A. EVERETT, Chairman of New York State
Indian Commission.
HON. DE HART H. AMES, Member of New York State
Indian Commission
DR. R. W. HILL, Member of New York State Indian
Commission
HON. A. C. PARKER, Member of New York State In-
dian Commission.

CHIEF FRANK PATTERSON, Chairman and Counselor opened
the meeting by an address in the Indian language
which was not translated.

CHAIRMAN EVERETT:

Mr. Chief and people of the reservation,
you are being visited by a Commission sent out by
the Legislature of the State of New York on a special
mission. The object of the mission is to discover
the status of the American Indians residing within
the State of New York. It is to inquire a little
further. To discover the status of the American In-
dian in the State of New York carries the object of
the inquiry back to the original relationship sus-
tained by the American Indians in the State of New
York when the first white man landed on the shores
of America. It is asked for and made necessary by

reason of a condition between the United States and the State of New York as to who has control and is liable for the obligations of the payments of money that is being supplied to the Indians of the State of New York by the State of New York. About \$150,000 is paid out each year, thru the government departments of the State for the support and government schemes that go directly to material support and care of the Indians of the State. A great many questions have arisen in years gone by as to what relationship the Indians sustained to the white man, his legal relationship. This has arisen in the course of the sale of property in a section of the State of New York. The United States Court gave a decision holding that the Indians of the State of New York are wards of the United States, making it necessary for the State of New York to find out to what extent that legal opinion goes. For if the Indians of the State of New York are wards of the United States, then the payments made by the State are illegal and subject the officials of the State to penalty for making such payments. It is not your inquiry, I will say. You, I think, are interested; but it is not your interest if either the United States or New York is legally bound to pay you money

and furnish funds to take care of certain branches of government applied to you and your reservations. It is a question if the United States or the State shall pay that which is necessary; - in other words, the trouble lies between the United States and the State of New York. If the State is paying about \$150,000 which should be paid by the National government, then the State of New York would only have to pay its part of the contribution but would not be called upon to pay the entire amount.

The newspapers and perhaps some busy people reported, I suppose to "but in" and perhaps to create trouble, that we were trying to take the first step towards making the Indians become citizens of the United States. Now, in the first place citizenship is created and established by the United States not by the State. I have an interest, as an individual and an opinion as an individual, as to what might be a good thing for the white man and the Indians concerning the question of his becoming a citizen; but I have no authority to speak it and no desire and we have nothing to do with the question of your becoming citizens of the United States.

The Commission, of which I am Chairman, calls for inquiry that is intricate and sometimes looks almost impossible. My comprehension of what

we are to do, is to go back to the original relationship existing between the white man and the Indian; that is, so far as considering the Indians of one government and the white man of another country. We have the intricate question of what constitutes a nation and what their inherent rights are as we find them located in different places on the earth. The court has questioned the right of an Indian to be a citizen at all. The latest decision and one having the strongest judicial bearing on the inquiry we are making concerns the foreclosure of a mortgage on the Oneida reservation. An Indian mortgaged a piece of property to a white man, and the Indian failing to pay the money pledged, foreclosure proceedings were instituted thru the State Courts and the property sold by the sheriff in a regular course and the property bid on by a white man to whom the sheriff gave possession. Now, the Indian thru his attorney applied to the United States Court and this Court decided that the proceedings in the foreclosure of the mortgage were illegal and without authority and re-established and reinstated the Indian on the property which had been mortgaged. The Court said that it was of no legal effect and in that case the Indian had not mortgaged the property, claiming the

Indian as a ward of the United States with no legal authority to sell or mortgage his property.

You who understand the legal effect of a decision of that kind will be able to comprehend the complex and difficult position it puts the State of New York in. It makes it absolutely necessary to decide what your status is. All the inquiries that have been made heretofore, concerning the Indians, have been ones dealing with special transactions on the reservations in which you had the data before you and could easily investigate.

My object in coming here is to see if you can furnish me with any information that will lead to the true history of the reason why you are here in this particular place; what arrangements did you make with the government at the time your forefathers came here and how did you come in possession if you are in possession of the property; what did you use to buy it with or what did you exchange it for if anything. Are you now living under the conditions provided by that particular trade or transaction with the particular government, either State or Nation, existing at the time the trade was made?

I appreciate the fact that the North American Indian in his relationship to the white man

has been one in which you - now the remnants of the people in possession when the white man came - have been divested of something everytime the white man came. You are entitled to be suspicious when a white man comes claiming to be interested in your relationship and rights. If he should tell you that I am not, or that this Commission is not, of that idea you would nevertheless remember what happened the last time and you are entitled to say you don't know but you are of the same color and maybe the same kind of a fellow. When I inform you that we are not, I shall hope to have you do all you can to assist this Commission in solving this difficult problem. I don't expect much help today and want to give you all the time you ask for if you conclude to help. I shall supply your Chiefs with copies of the Minutes taken on each reservation and also with a copy of the laws and Treaties of the United States with the Indians in three volumes. I would ask you to study them and compare with any information, written or otherwise such as traditions from the older people and when we come again to hold a meeting, as we shall, perhaps at that time you can tell me in what respect the laws are different from your ideas. I have discovered several places where the Indians claim that the written treaty of which they are in

possession differs from the country lines of the reservation and from the treaties on file in Albany. I want to declare and promise that I shall with all sincerity and with all the ability of the Commission inquire into all these things and decide with you as to the accuracy of the description and statements that have been made on record.

I am assured by the present Governor, the Honorable Alfred Smith, and by the Republican candidate for Governor, that I shall receive the support of whichever man is elected as Governor in our endeavor to accomplish this. So, if we re-elect Mr. Smith, we will have a man interested in our case or if we elect the other party we will have a man interested in our cause.

The white man of the United States is compelled to settle this question and it cannot be deferred. The difference of opinion the inborn feeling of dissatisfaction created from a feeling that you have been unjustly treated by the white man will be disposed of in the decision of this case and the report made to the Legislature. When it comes to that step of the case, you are interested and I assure you that your voice and influence, arguments and reasons shall, so far as this Commission is concerned, be given full consideration.

(Here read a copy of the Law creating the Commission) Now, that I have fully explained our mission, I shall be glad to listen to any statements from the tribe. First, I would bring to your attention, that as I have just read the Act controlling this Commission, you notice there is no reference made to your becoming citizens, as it relates to your status and to that alone.

CHIEF FRANK PATTERSON:

(In Indian tongue, addressed the people, explaining Chairman Everett's address.)

MR. JOHN SNYDER:

Mr. Chairman and Gentlemen of the Commission, I have been requested by the petitioners in behalf of those who signed the petition sometime last winter in relation to the Congress, they came to me and insisted on my appearing before you stating their views and position in relation to the control of the Indians in the State of New York by the Legislature of the State of New York. Your attention is first called to the fact, my people whom I represent, strenuously object to being made citizens of this State and that they will take this position before the Committee of Congress or wherever necessary. While this Commission from its very inception seemed to originate from illegal expenditures of

public funds and further that we do not know what the ultimate disposition of this Commission will be, that is to say the ultimate design and purpose.

We appreciate the fact that it might and could result in the termination of the appropriation now annually made by the State for our schools, maintenance of highways on our reservation and other purposes. I personally have had occasion to go into this question that I am of the opinion that after the State of New York had assumed the obligations voluntarily assumed by it (the State of New York) that it cannot now shift the burden back to the United States government the actual trustee of the tribal Indian.

I find by the provisions of the statutes of New York which creates these funds as we obliged to admit that the State of New York created a voluntary trust and was bound to perform the duties of its office in precisely the same manner as though the trust had been created by operation of law and the State was legally constituted trustee. See - McArthur vs. Gordon et al, 186 N.Y. 597, Hutchins vs. Von Vechtin, 140 N.Y. 115. It will be observed from an examination of the case of McArthur vs. Gordon that this trust was irrevocable, that is to say,

the State had no power to revoke the trust or shift the obligation imposed upon it unless with the full consent and acquiescence of the cestuique trust. This is the general rule.

"This generality is stated to be so limited as that the cestuique trust must be sui juris and capable of acting for themselves; so that married women, minors and others thus under this disability cannot be bound by a legal acquiescence or even by urgent request." *Sherman vs. Parish*, 53 N.Y. 483-92.

So we say the trust was irrevocable because the cestuique trust was incapable and disabled under the rule to act for himself. Consequently, consent by him to withdraw these funds would be ineffectual to relieve the State of its obligation to perform the duties of the voluntary trust assumed by it under the provisions of the statutes. That no time need be spent on the fact that "These Indian tribes are the wards of the Nation. They are communities dependent on the United States--the treaties in which it has been promised, there arises the duty of protection, and with it the power."

Cherokee Nation vs. Georgia, 5 Peters 1
Worcester vs. State of Georgia, 6 Peters 515, 535
Mitchel et al vs. United States, 9 Wheat:748 335
New York Indians, 5 Wall 761
Holden vs. Joy, 17 Wall 244
United States vs. Boylan, Recent decision
United States vs. Mahlin, 111 Fed. Rep. 240

With the foregoing situations and the following

treaty stipulations clearly indicate the right of
authority, to wit:-

Treaty proclaimed June 9th, 1789

"Article 8. The United States of America confirm to the Six Nations all the lands which they inhabit lying east and north of the before mentioned boundary line, and relinquish and quit-claim to the same and every part thereof, excepting only six miles square round the fort of Oswego, which six miles square round said fort is again reserved to the United States by these presents."

Treaty between the United States and the
tribe of Indians called the Six Nations, proclaimed
January 21, 1794 - Art. 11, 111 & 1V.

"Article 2. The United States acknowledges the lands reserved to the Oneida, Onondaga and Cayuga Nations, in their respective treaties with the State of New York, and called their reservations to be their property; and the United States will never claim the same, NOR DISTURB them or either of the Six Nations, nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof; but 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."

"Article 7. Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States and the Six Nations agree that, for injuries done by individuals on either side no private revenge or retaliation shall take place, but instead thereof complaint shall be made by the part injured to the other - by the Six Nations or any of them to President of the United States or the superintendent by him appointed, and by the superintendent or other person appointed by the President to the principal Chiefs of the Six Nations, or of the Nation to which the offender belongs, and such prudent measures shall

then be pursued as shall be necessary to preserve our peace and friendship unbroken, until the Legislature (or great council) of the United States shall make other equitable provisions for the purpose."

A Treaty between the United States by Ambrose Spencer, their Commissioner, and the Chiefs, Headmen and warriors of the Seneca Nation of Indians, proclaimed August 26, 1842.

"Article 6. The parties of this compact mutually agree to solicit the influence of the Government of the United States, to protect such of the lands of the Seneca Indians, within the State of New York, as may from time to time remain in their possession from all taxes and assessments for roads, highways or any other purpose until such lands shall be sold and conveyed by the said Indians, and the possession thereof shall have been relinquished by them."

The foregoing stipulations clearly indicate the following:

FIRST: That they were legal and binding between the parties of the compact.

SECOND: That the language of such stipulations of said Treaty are simple, clear and comprehensive so that there can be no room for misunderstanding as to their construction, as to their purpose, design and effect.

The tenure of their title at this age in history is rightfully defined in - Ogden vs. Leo, 6 Hill 546, United States vs. Cook - 86 U.S. (19 Wall) 591.

The following is found in Chapter 209 of the Act of March 3, 1893:

"In all states and territories where there are reservations or allotted Indians, the United States District Attorney shall represent them in all suite in law and in equity."

That the above mentioned Act was unquestionably constitutional, every law of any state to the contrary notwithstanding, so that every state was bound to obey them under the provision of the third clause, Section 8, Title 2, of the Constitution of the United States which granted the power to the general government to regulate trade and commerce with the Indians.

So that we must necessarily concede the fact that it required a majority of the individual states to embody the aforementioned provision in the said Constitution. And that it further follows that the general government cannot by an Act of Congress transfer that authority back to any individual state without an amendment to the Constitution. United States vs. Mahlin, III Fed. Rep. 240.

So that since 1871 the National government had seen fit to do away with treaty making with Indians and substituted ~~/~~legislation therefore. We are also of the opinion that while the State of New York had assumed in the manner herein before mentioned and that while in the discharge of the duties thus voluntarily assumed had not been antagonistic nor

prejudicial to the interests of the tribes with reference to legislation which relate to the internal affairs of said tribes, except on one or two occasions.

We regret to make the broad statement that if Congress should transfer the right to govern New York Indians to the New York Legislature, that we are loathe to say there being so many divergent interests involved, such as railroads, townships, oil interest, gas interest and leases for other purposes, that we might see fit to apply and use as defense the prevailing opinion in - 6 Peters 515:

"They are communities dependent on the United States largely for their daily bread. Dependent for their political rights. They owe no allegiance to the States and receive from them **no protection**. Because of the local ill feeling, the people of the State where they are found are often their deadliest enemies."

That is, business enemies when citizens of the state are interested. I have seen fit to discuss one more interest separately due to the unknown quantities of the proposition, that is the question of the rights of the Ogden Land Company of which your Commission is quite familiar but we wish to impress the idea that we believe that the contracting parties are Massachusetts and New York and that the Seneca Nation of Indians are not a party to the compact. We

therefore propound this question;

FIRST: Can the two compacting parties enforce even legal rights against the third party when the third party was not a party thereto?

SECOND: Do they own taxable interest based on any assets?

In our conclusion, what this right may be is simply to prevent the Indian from selling his land to California or some other state or foreign country. It has no basis value and cannot affect the value of the land when sold. "They shall have the right to buy from the native Indian when he chooses to sell." If there be no Indians, who could choose to sell? What is the consequence? A sale is a condition before title can be acquired. Then, where did the State of New York secure its title to the lands under Lake Erie and Niagara River for which it has received hundreds of thousands of dollars.

So, we concluding that the right to regulate trade and intercourse with Indians in this State should not be vested in the New York State Legislature in view of all the interests involved.

CHAIRMAN EVERETT:

I want to correct the impression you seem to have that perhaps the appropriations will be stopped on account of this difference. Let me say it is

not the intention of the State of New York to cease any of its payments pending the settlement of this matter. In fact, the Governor personally consented to an appropriation of \$10,000.00, last year, for the first time for that particular branch of Indian matters, it being for agricultural interest on the reservations to pay the tuition of the Indian boys or girls who want to study that question and who are unable to pass the entrance examinations as provided by Regents. Also, I secured \$10,000 from the Governor to establish a high school on the St. Regis reservation, which I think is the first high school to be established by the State on any reservation. I will say, and believe that I have the support of this Commission, that we will advise and request the State to place on each reservation accessible to every Indian, school just as good and well equipped with all the facilities and teachers that are given to all children in the State of New York. I appreciate that you have been wrongly treated by the Education Department and I have myself told that department and am encouraged that they admitted it was true and that it should be corrected. I would like to see a high school and the added equipment for a vocational school for agriculture, domestic science

and trade on every reservation of the State.

I want to congratulate this reservation and the Indians who are residents here on the fact that you have just heard, from a member of your own tribe, the question of a legal discussion that you could hear from any court of white men. I will say that the last speaker has conveyed an impression to me that he is acquainted with the affairs of law of this country. Mr. Snyder will be a valuable asset to this Commission in the study of the fee to the title of lands when the Indians were here and no white men.

He is competent to comprehend the intricate subject we have before us. He can explain, in your own language, better than I can make you understand, as his education and development will enable him to give you the white men's reason for doing this, what the fee means, where left and who can control same. I shall be glad if he will spend some time in making you acquainted with how you possessed the right of the country you occupy, how you disposed of it and what your relationship would be if somebody assumed to take it and didn't get it. Not as a member of this Commission, but as an individual and citizen, I want to place myself on record that

my judgment, experience and education warrant me to say that if I were in your place I would not accept citizenship until the business relations between me and the white men were settled.

I don't blame you for being suspicious if the white man attempts to make you a citizen before he accounts for the property you think he has which belongs to you. The reading of the Bill, creating this Commission, the declaration of myself and the fact that I am speaking for the commission, I hope will be sufficient guarantee to you that our statements are sincere and honest when we say to you, "We are not here to advocate the idea of citizenship." Your own member, Mr. Snyder, has stated the law when he asserted that citizenship could not be imposed or forced on anybody.

His statement that any trade made between the United States and New York State, concerning the disposition and care or control of the Indians would be valueless without the consent of the Indians is absolutely correct. His statement that the State could not turn the obligation over to the United States is a law that has never been disputed by any court, so that no third party can come in a contract between two people without the consent of both original contracting parties and this Commission could not

change that rule of law.

I am not going to attempt something that is so foolish that a child wouldn't try it, and furthermore, it is not a part of my mission and intent. The status we cannot change at this time anymore than the counting of a pile of potatoes could be changed by talking about it. We are here to count the potatoes and are powerless to change it and have no disposition to try; but we do want to know that none of the potatoes have been removed and are going to have you to witness the count. I again want to congratulate you upon the intelligence shown by the gentleman who spoke last, Mr. Snyder, he is going to be a help to you and to this Commission.

MR. PARKER:

With reference to your statement regarding the lands under Niagara River, you contend that the Seneca Indians still own the bed of the Niagara River?

MR. SNYDER:

Yes, for all purposes except to pass boats.

CHAIRMAN EVERETT:

Can you furnish this Commission with a description of this land by meters and boundaries so that we could get at something in the question of

disposal of this property or is it in the treaties which we have?

MR. SNYDER:

The treaties describe it accurately; but the Erie County Clerk's office have a report.

CHAIRMAN EVERETT:

Have you the Laws and Treaties of the United States with the Indians?

MR. SNYDER:

Yes sir.

MR. CARL LEE:

Mr. Chairman, I was much gratified in the statements you made regarding us assuring us of your cooperation and can say that we are not hostile to your position. I think I fully speak for my people. I realize that we have been neglected, in a way we have been under oppression, I might say. Of course, I have laid these things aside personally and am willing to cooperate with this Commission; but I have no legal attainments, am no lawyer. It seems that this is a new era in our civilization. This Commission is trying to find out our standing with the State and the Government and I want to show you that the people will cooperate with you and I know our Mr. Snyder, full of legal knowledge will help and I

thank Mr. Chairman for speaking before you.

MR. WALTER KENNEDY:

I think this is a question in which we are all interested. I want to say that in 1838 (I will commence there) the Seneca Nation of Indians, the Chiefs, they were governed by Chiefs at that time, they sold the four reservations, the Buffalo, Tonawanda, Alleghany and Cattaraugus. Some of the Indians, at that time, were willing to go west; but then at that time parties arose too as some were bought or made drunk to consent to this sale and it was not signed in general Council by all the Chiefs. A man named Hucklebone contracted with the President to take the Indians west. He goes to Washington and says that two hundred and eighty Indians are ready to go and I want 420000 to take them and then they hand the money to him and not long after that the steamboat landed at Irving and the man Hucklebone said, - "Now, Mr. Indiana, the government has provided homes, good homes for you and you had better go and whoever gets there first will get first choice." Well, what do you think these Indians found? On the right bank of the Missouri River, he said, - "Now your homes are over the river and there the government has buildings" and they started to look for

their homes and he went back home and left the Indians. The next day the Chief said he wanted three runners to find the buildings and they started one east, one west, one south and went a day's journey and reported they saw nothing but game, no buildings. So, the next day they sent out men to stay two days journey; but they also returned saying they saw nothing. That is the way the Indians were served in 1840. Then the Chiefs asked, - "Who will volunteer to report to New York State conditions as they are here?" So three men came back to protest and report that the government had not done what it promised.

My father, John Kennedy, Pattison's and Blacksnake had a little money and contributed to send delegates to Washington and they found that the Ogden Land Company had been giving money to Indians to sign that treaty of 1838; but my father succeeded in getting a compromise from the Ogden Land Company for they got scared and promised to give back the two reservations and father said,- "All right, we will be satisfied that way." So they got back this Cattaraugus and Alleghany reservation and let Buffalo Creek and Tonawanda go. So in 1848, the Indians held a conference and voted to set aside

the Chiefs and got up a constitution, the first we had which provided a republic, a president, treasurer and I think eighteen counsellors to govern the nation. After the officers were elected, this gentleman's grandfather, William Jamierson, was appointed clerk. He wrote to the Secretary of War at Washington who had charge over the Seneca Indians, they were under his protection and to the State asking them to recognize this new form of government that the Seneca Nation had adopted and the dates I can furnish you sometime to help you enlighten your people regarding the matters on this reservation. I will wind off right here and not go any further.

MR. JOHN VAN ARNUM:

Mr. Chairman and members of the Commission, I appreciate the efforts that this Commission is cooperating with the State and feel the way the Jews felt in Egypt, that is the way most of us feel in these days. It seems representatives of the State have prosecuted because we are Indians. We can no longer hunt and fish as we used to, nor camp along our lands, lakes and rivers and fish. Our streams are polluted from factories beyond our reservation thus destroying our means of livelihood, we can no longer fish. So it is up to the State as in the past to give us education and true education, we

must live to supply our needs.

I understand this Commission has authority to grant our desire for the betterment of our Indians and I must say,- "Give us education." I want to express complaints against the Indian school. The conditions are bad, the building poor, untidy for years, etc. One of my boys brought home a book this spring, an old relic, the name on the cover was a man who died about thirty years ago, so the book must be thirty years old, they are filthy, dirty in our districts.

We can hunt nor fish no longer, give us education to help us live. We need knowledge in agriculture work to develop our lands. It seems that the State has taken a step to instruct and maintain a young man who desires to enter these schools and that is what we need on this reservation, good schools and instructors. It is education we need in agriculture so that when the young arise to become citizens, we can compete with any man.

MR. JAMERSON:

Mr. Chairman, gentlemen of the Commission, I want to ask one question, this Commission here has, as I understand it, only one object, to find out whether you have to pay that \$150,000 or not, is it not?

CHAIRMAN EVERETT:

We are not here to find out if you are to receive the \$150,000 are not. We are compelled by the law of the State to find if it is to be paid by the State or Government. The State is not to blame for the question that has arisen. The State had assumed the responsibility of taking care of its Indians, except in one or two instances as regarding the cloth and about \$12,000 which the United States continues to send to the Indians. The money contributed by the State is a voluntary expenditure in nearly every case, and while this case is pending between the State and Federal government, the State will not cease to continue to pay the same money.

This Commission was created on account of A United States Court making a decision that the United States owns the party which had control and supervision and legal right or authority over the Indians. That was the decision of a United States judge sitting in the State of New York.

I will repeat a part of his decision to show you how complicated the duties of this Commission are under that decision. He starts by saying that the Indian is an alien. Now, an alien is a

man residing in a country, not the one in which he was born or a native or,- for instance, an Irishman living in France would be an alien to France. The next paragraph in his decision states that the Indian never disposed of this right of self-government. In the next line of the same paragraph he states that the Indian is a ward of the United States.

Now, that those statements and those lines and parts of sentences of a legal decision which we want to recognize or show to the next higher court, they are unreasonable and not the law and you will solve the question that is very complex and difficult. The trouble is that when a fellow is a lawyer, he does not necessarily agree with the court and then he is as helpless as you are.

Now, this case makes it necessary for us to determine the status of a human being who has been adjured in some courts to be of such character and kind that he could not acquire citizenship, for no man can be a citizen except he renounces some country of which he is a native. We have instances of the white man buying land and taking a deed of it from an Indian or Indian organization. We have cases where a representative of the State of New York or the United States or someother State bought

the property of an Indian or Indians' organization, and claiming to get a good title from them, turns around and says to the same people,- "I am your guardian, you are incompetent, I will take charge of your property." You understand the relationship of guardian and ward and I know at least one man here (referring to Mr. Snyder) who does. The inconsistency of anybody seeking to accept the title of property from a person and in the next breath determining that he is incompetent to give it.

I am not here to decide the case today but want to give you my view of the white man's position, if you let him have rope enough to hang himself. If I am your guardian and took your property three hundred years ago, all the conditions applying to guardian and ward must be recognized and an accounting must be given by the guardian. There is not one law for the white man and one for the red man, that would be a queer mixture of reason.

The Legislature has submitted a problem that may make a serious amount of trouble, but I cannot perform my duties as a member of this Commission without solving that question. I believe it has been fussed with and fooled with and put off by the government of the states and the United States long enough and I want to add that my impression of

the sentiment of humanity today is to give every man justice. I have said to the Legislature and to individuals,- "Now, that we are at it, and the subject is before us, let us wash our hands clean of the charges of the Indians of North America, as we sought to do between the Germans and the French." I don't expect to settle this by a sentimental expression; but I say that the force of humanity is helping that way. I say we cannot afford any longer to allow an injustice to stand and believe you will have returned to you what belongs to you if the facts warrant it.

I don't want this to be treated as a promise or claim, I am speaking from my impression and belief because of the general humane conditions of this day and believe you can rest assured that what is meant by civilization and fair treatment will do justice to you and by you.

MR. FRANCIS JAMIERSON:

I don't care to make any long speech for the ability of the young gentleman so impresses me. You have already congratulated our people that we have some young men able to stand before any audience and express their thoughts from the bottom of their heart. As I sat listening and what little I have

learned concerning this Commission, it looks to me it is a jangle between the State of New York and the Federal government, a little quarrel between the two authorities, I might state. They must discover the real status of the red men of the State of New York and make such recommendations to the State Legislature as what shall be done with the Indians and for the Indians. The question is if the United States government refuses to cooperate with you, what are you going to do, law it out with the government and have the courts decide?

CHAIRMAN EVERETT:

As Chairman of this Commission, it is my duty to answer all questions, and inquiries. I believe you are a lawyer.

MR. JAMIERSON:

So Mr. Bennen says, ask him.

CHAIRMAN EVERETT:

Any attempt to influence the State of New York except thru the courts would be considered insurrection, rebellion. I appreciate the fact that the question in similar form must be judicated by the United States. They will decide this upon the facts and the law. We never yet have had a serious condition arise owing to the fact that an obligation

upon the shoulders of the Nation or State failed to be satisfied. I think you can realize that a determination of the case arrived at from the facts will make a proper conclusion and be satisfied from the State and United States treasury if there is anything to be done.

MRS. EMILY TALLCHIEF:

In Indian gave her recollection of traditions of her forefathers, which was mainly interpreted for the Commission. She is 86 years old and a granddaughter of Old Chief Cornplanter, a celebrated Chief of the Senecas during the Revolutionary War and who was one of the early signers of treaties between the Indians and the white men. She gave her remembrance of the Buffalo Creek Treaty of 1838. She said a great many things were not just right. She said her father and ancestors were great men from the Cornplanter Reservation of Pennsylvania, and that it had been handed down to them what the treaties meant to them. She always understood they had the right to hunt and fish and cut down trees among the whites when they sold the land to the whites and that nobody ever said a word at that time.

She said she is glad the Commission is here altho she cannot understand all you say, as in

childhood days she was forbidden to attend school and now she is getting old and it will not be long before she will be down and out.

She further says that agreements entered into by George Washington were binding forever as she understands it. She told how the white man fooled her forefathers by asking for a piece of ground big enough to be covered by a deer skin and then the white man cut the deer in fine strips and covered a large piece of land but the Indian having given his word of honor sadly parted with more than he expected. That she felt sorry for her people and hoped something would be done for their future.

MR. GEORGE JAMERSON:

One more question, I want to raise, altho I am not a lawyer, and don't understand all you say. It is always my rule in dealing with white people, as a rule he is all right if he has a watchman. A while ago you said the principal object was to determine if the State was to pay toward the Indians. I am naturally suspicious, I inherit it, I believe it is the smallest part of the State's trouble, the money. By this whole thing, the real object in determining the status is to discover under whose jurisdiction we are. If anything comes up, New York State

wants to have jurisdiction over the Indians that is what I want to ask.

CHAIRMAN EVERETT:

No, you are wrong. If a man were lost in the woods it would be foolish to send a committee out to find him at some particular spot for if we know where he is we cannot say he is lost. I will say this, that when I visited Washington, the Indian Commission suggested that the State assume the responsibility, however, this determination might result. Their reason being that we are nearer and could better attend to your wants and do for you better than the National Government as that body would have to be located in Washington or the officers in charge of you be appointed by the National Government and possibly come from another state than New York. You are entitled to be suspicious owing to the fact that like an orphan child you have brought to your attention at a certain age the fact that your fathers owned a certain land and now find yourselves poverty stricken and poor and wonder how it happened. This Commission is to discover and report the status of your race of people. You must think seriously and for sometime on the application of the word status to this inquiry and your people and I think Mr. Snyder will admit now that he hasn't en-

tirely mastered the matter of procedure of the things that must be inquired into that must be submitted to this Commission. The settling of the problems of peace among the European nations, the League of Nations, is a problem something of this kind, but they have all the evidence there before them as it started in 1914 while the records we must have were as important and genuine at the time they took place as those of recent date. The President of the United States and the United States Attorney General and the best legal talent of the world and most keen to the question of civilization of the world, on the cessation of physical struggle, is being applied to the settling of peace and the status of the people of the world. That is not dissimilar to what this Commission has to settle; but the trouble is the history covering the facts is in some instances covered by age and unknown.

We are going to do the best we can; but are not looking to find the lost man in any particular locality. I will finish my duty when I tell you where he is. I don't assume the responsibility or authority to say what will be done; but naturally, if you apply it as we should, I shall return him to his family and if I follow that same idea, we should

return to you the thing you have been wrongfully deprived of.

MR. FILMORE JACKSON:

There are a great many things the Chairman read but there is one section - we must show why we are here now, we have to give an account of ourselves, why we are here. is we are the aborigines of this country and now the government from Albany is looking for the lost man; but I say you have found him and a few years ago we had a chance to go to New York and we went to some island that the State bought for beans and ribbon it wouldn't exceed thirty dollars. I set here and listen in this argument between two authorities, Albany and Washington. Here we are thrust from one side to the other. It seems they don't either side want to own us.

The thought came to me, why now the Legislature wants to know it seems they regret in giving us \$15000 and then my thoughts runs back to that trade with the island and the State of New York. We ought to get a hundred fifty thousand million and not one hundred thousand. I say for my part, I can't say why I am here. Somebody who has the over-ruling power that sees everything knows why we, the red men of the forest are here in this little pen now.

I am grateful the Chairman said he give us back everything we took away, we will have the United States yet.

A further interpretation of speech given by Mrs. Emily Tallchief -- She said that her grandfathers had an understanding with George Washington and the agreement they made should be let alone as long as the grass grows and the waters fund and the sun comes up. And they have the right to fish and hunt and remain as long as the grass grows and the waters run and the sun comes up.

CHAIRMAN EVERETT:

The matter of buying hunting license has been brought to my attention. We found that on the reservations the Conservation Commission ruled that the Indians are aliens and had to buy an alien hunting license.

MR. JOHN SNYDER:

My attention has been called to that fact and they secured licenses, in some instances they paid for alien licenses and in one case both. There is a question, - for according to Wevster, we are not aliens, - we are not foreign born, we were born and raised here. It doesn't seem right that they should insist upon requiring teh fee as of an alien \$10.50. We never came from England or Russia and that is what the alien law is for. We are residents and actually citizens in the meaning of the word. Ibelieve we ought to have the same privileges as the white man who comes on our reservation and this ought to be settled.

CHAIRMAN EVERETT:

I am willing to confess that a condition of that kind among your people is wrong and an outrage. To consider you an alien aggravates you from two standpoints; - One, that it places you in a position the same as a man born in a foreign country, not this country. Second, it compels you to pay a foreigner's license to hunt on land you sold to white men and in which sale you reserved the right to hunt and fish. A treaty is a contract although entered into a great many years ago. The laws of each country forbade the passage of an ex post facto. If then years ago you made a treaty with the State of New York, they couldn't now, without your consent change the conditions of that trade so it is absolutely illegal to pass a law to change your rights under that sale of property.

Now, the Conservation Commission have charge of this land, forest, streams and water power. They may tell you what kind of dam you must construct and you have to do it as they construe the Act under which they work, and very often it is wrong. It is nothing the Legislature can interfere with until the wrong has been committed. You can appreciate that if the power of a department in the State takes a position against an individual, the individual is at a disadvantage for he has the prestige and authority of the Department to displace in order to establish himself in the contention.

I states in one instance I expect to be returned to the Legislature as Chairman of Conservation Committee of the Assembly and I will use my best efforts to see that a law is passed to allow the Indians to hunt and fish at just the same prices as a white man not a foreigner. Of course, if the Indians were allowed to hunt and fish without a license

during the closed season some unprincipled white man would persuade him to do so for his benefit for we found this condition on the St. Regis reservation where the markets of Bosten were reaping the harvest and depleting the north of fish by catching out of season. I don't think you want that condition. I want you to think that over and see if you want to force the treaty right according to the original conditions of the sale or trade. I believe you will be satisfied to protect the game in the season when it should be protected by not allowing anybody even of your own people to hunt or fish when the season is closed. That is one of the reasons used by the Conservation Commission in their attempt to stop you from exercising your right under that sale. In my judgment they are wrong as you reserved a specific right that could not be changed by acts passed after that trade had been made.

MR. PATTISON:

In regard to that matter, we make rules and regulations on this reservation and sent a delegation to Albany to have it approved. They said they could not give us jurisdiction. A couple years ago, at Syracuse, The Assistant Attorney General Jenks, he said the State had no jurisdiction to make laws over the Indians.

MR. A. C. PARKER:

Let me ask a question, when the Seneca Nation formed its constitution^{AL} government in 1842, did it ask the State of New York to make laws for it?

MR. PATTISON:

I think not.

MR. SNYDER:

I would like to say in regard to the Conservation matter, we asked to form a Conservation Commission of our own on the reservation and Mr. Jenks appeared before the Senate Committee and said the State had no jurisdiction and the Committee refused to go any further. Was he right?

CHAIRMAN EVERETT:

I think he was.

MR. JOHN SNYDER:

Referring to the Constitution of the Seneca Nation, I have looked up that matter in view of the opinion in the Conservation matter. The question comes up, there being a membership corporation as to whether the State of New York had a right to pass legislation without the consent of the Nation, I think in one or two instances the State passed legislation and later it was repealed; but outside of these two instances I think it was requested by the Indians. If they were incorporated under the laws of the State of New York then the State could pass any laws covering any corporation existing within the State; but the Senecas could convert themselves into a tribe and thereby evade the application of the law.

Second, what laws that were passed on the part of New York State if as suggested New York and the United States enter into litigation would have to be adjudicated. It was customary to follow the laws of the State of New York whether written or unwritten. So consequently, they cannot get away from the active conditions as they strike them.

MR. A.C. PARKER:

Was there a membership corporation organization under the law of 1848?

A:

Yes.

CHAIRMAN EVERETT:

I am calling your attention to the New York State corporation laws that the organization in most staes take the authority be Act of Legislature.

MR. KENNEDY:

They provided the law in case the Seneca Nation of Indians got in debt with you, you could bring action against us, that is as I understood it.

MR. SNYDER:

It is a fact that the Corporation Seal is used on all Acts of Council or instruments of that character and description so that in whatever case they do act they act in corporate capacity.

CHAIRMAN EVERETT:

I suggest you look up that particular point.

MR. SNYDER:

It was a special corporation act and not under the general law.

CHAIRMAN EVERETT:

As I said, we do not expect to get the information at this meeting, it is the intention of the Commission to give everybody an opportunity to make research for the things that you understand we want in order to solve this question. We leave it to you to fix the date for the next meeting so when

you are in a position to furnish us further information as to what you discovered to be the conditions after careful comparison with what you have and what I send, we will hold another meeting and it is the purpose of the Commission to hold as many meetings as necessary and a final general meeting with representatives of all the tribes to discuss how we agree on the question of fact concerning the trades or treaties, justice etc. and everybody will have an opportunity to study and suggest what the settling of the problem should be having in mind of courses that we must settle it according to law and further it may turn out that you are just as independent a Nation as the white man. But whatever comes, be reasonable. If it is is proven that you have no guardian and therefore are not wards, an adjustment of title to the lands you possess will be handed you in this decision as well as any other thing that may come up. This Commission will not decide until they have applied their best ability. What is done will not be in the dark nor behind closed doors, you will know what is done and have a part in it and I ask you sincerely for your honest cooperation, in simply finding the fellow who is lost. We will adjourn this meeting now.

CATTARAUGUS RESERVATION

CAYUGA TRIBE

August 24, 1920

At the home of Mrs. Carrie Pierce

PRESENT:

HON. E.A. EVERETT, Chairman of New York State Indian
Commission.
HON. DE HART AMES, Member of New York State Indian
Commission.
DR. R.W. HILL Member of New York State Indian
Commission.
DR. A.C. PARKER Member of New York State Indian
Commission.

CHAIRMAN EVERETT:

Mr. Chairman (Chief Eddy Spring) and people of the Cayuga Nation, the Commission of which I am chairman is here on a special mission created by court decision. The cause for the organization was to discover the status of the American Indian residing in the State of New York. The fact that there may be some differences between you as individuals does not matter so far as it relates to the status of the American Indian. I will explain in a little more detailed statement why the Commission was organized.

The first violation by Indians of the Oneida reservation started a law suit in which the Indians pleaded the fact that in the sale of lands they reserved the right to fish and hunt on all lands sold. A representative of the Attorney-General's office appeared to prosecute the Indians for fishing illegally off the reservation. The Indians secured an attorney of their own and the case was adjudicated and the Indians, in their defense, claimed that they were not subjects

of the State of New York, but of the United States. But, that case was not of sufficient importance to create a commission. However, a little later, a serious matter in the foreclosure of a mortgage developed.

An Indian occupying property on the Oneida reservation gave a mortgage to a white man. The nature of a mortgage is known as a conditional sale in legal phraseology. It is a pledge; if they pay the debt, you can't take the property. An important feature is the ownership of the property. It must be owned by the man who pledged it. Now, the Indian was in possession and the white man supposed he owned the property and the State of New York, thru its courts, foreclosed the mortgage. The Indian was served with notice that the time for payment of the money had expired and the man held the mortgage got possession of the property. The sheriff advertised for sale and it was sold and a sheriff's deed given and all papers filed in the County Clerk's office. The Indian thru attorneys appealed the foreclosure and the proceedings had under it; that is, they carried it to the United States Court which under our governmental arrangement can be done. There the judge said that the Indians had no right to mortgage their property and that the proceedings were void and that the property must be returned to the Indian. That the State of New York was without authority to mortgage, sell or interfere with Indian property, at least with that Indian property.

In the opinion of the judge, who made the decision in writing, he declares in one paragraph that the Indian is an alien, which means not a native resident of this country. Then he says that the Indian never gave up, disposed of or relinquished his right to self-government and in the next

paragraph he says you are wards of the United States.

There is where we are bound, by that last decision, that is the law. If we write a law and pass it by the legislature, it may be declared to be annulled by the courts, that is our form of government; but, when a judicial decision is made it is the law until changed by a court of greater power. Now, the State of New York pays out to the Indians about \$150,000.00 yearly. The law makes it a crime for any State officer to pay out money for anything not an obligation of the State and if the United States were the debtor and we should pay the debt, then the officials paying the same could be sent to jail. The Legislative Finance Law places that safeguard on the State's money and it can only be paid by what you call a warrant.

We had supposed the Indian as an obligation from the time of the first treaty and trade up to the present time. Now, the State Comptroller is the one who would commit the crime and he stated to the Legislature that they must discover what is our obligation if the payments should be made by the United States or the State government. This necessitates our inquiring into the status of the American Indian residing in the State of New York. You must spend some time thinging over this subject before you become familiar with the intricate parts of it and to understand why it is imperative to get and to do what we are instructed to.

It is not the policy of the State to discontinue the payments of money now being made to the Indians, pending the time this action takes; rather, the State will continue to do what it has always

done until this question between the United States government and the State is settled. You did not cause this situation and have no interest except that the difficulties now existing between the Indians and the white people may be adjusted during the time this matter is being settled.

This Commission comes with a request that you assist us in getting the facts that were the moving cause, the consummation of the treaties and trades from the time the first Indian dealt with the white man. The Commission believes that this is the only way we can arrive at a correct and proper conclusion. That will be difficult for one reason, there is a difference of opinion between the written treaties now on record so far as the Indian is concerned. That is, he contends that his understanding of the treaty is different from what the written record shows it to be.

You are unfortunate in the fact that, as a nation you were not in the habit of reducing to writing the agreements made between you and the white men; but you did it by word of mouth, transmitting from one generation to another thru mind or memory what the transaction had been or had meant to you. We sometimes think the Indian was crude in doing it that way; but, if we reflect it is not a great many years since the white man exchanged his real estate by the parties meeting and the man who sold the property handing to the man who bought it a handful of earth and this was done after looking up the boundaries and marking the corners and in the presence of the neighborhood.

Your Bible teaches to preserve the landmarks of your forefathers; so you were as up-to-date as the white man, you kept your customs and we changing ours to writing. I enter

this explanation for the purpose of calling to your minds the fact that this Commission is not going to quibble over a custom which might be considered not capable or sufficient to deliver a title.

This first thing necessary is the question of the ability of the North American Indians to be the owners in fee of the country they occupied. European countries had adopted the policy of calling themselves the civilized countries of the world, all acquiring title by conquest; if they were strong enough to take possession of the title and reduce the inhabitants to slavery in some form.

This country, when discovered, was attacked by all these different interests, England, France, Spain, etc., all attempting to take possession of some of this territory. Their law was that they accorded to any people, located anywhere in their discovered territory, the right to be considered a nation if they maintained law and order. If they were a band of savages devoid of any law, they took the country considering them of no more account than wild animals and did not feel it necessary to ask them to sell the property.

One of the real vital points in this inquiry is the question as to whether the Indians held the title to this continent when it was discovered by the white man. In this you can be of help. We come asking for your sincere support to secure records and facts which you may be able to obtain regarding this matter.

I suppose you now say this is another one of those investigations where the white man finds out a little more about the Indian and the Indian finds he has a little less when he gets thru. I will say that I have come to the conclusion

that this has been true. Why should you people be dwarfed into a small band of hunted, pursued and almost impoverished people, while the white man has grown into the numerous people they are? I am constrained that this Commission comes in an opportune time when all human beings seem to be a little more human. I don't bring a promise of reward or the turning over of an immense amount of property, but we do say that if the facts show you are entitled to something you haven't got, we will use our best effort to see that you get it. No nation or people can live and not settle their debts.

If the possession of the property now acquired brings to our benefit what possibly was acquired wrongfully by our ancestors, they cannot make one change: but we can. I have no specific case of Indian property being wrongfully taken by a white man, but have an idea that something is wrong and you have that idea in more specific accurate form.

We are coming around again as we know you cannot furnish us with the information today. The plan of the Commission is to visit these reservations and get acquainted and find out the surface information that is always available in any community. When you are ready to supply us with something you don't know today, we will come again and until such time as we have enough information that all the tribes and reservations of the State are ready to meet as one body in one place to discover what we have together. Then, when we say there is nothing left to discover, we shall sit down and in the presence of all and with the assistance of the Indians of the reservations make a report that will determine what shall be done; or what the status of the American Indian is in the State of New York today. Many of your relatives and members of your tribe are scattered over the West and your status here will

establish their status there so far as it relates to governments and nations.

I will send you copies of the Laws and Treaties of the United States with the Indians. You take them and in connection with the evidence and records you have, see if you can find out how they agree and then we will be in a position to decide from the records made from time to time what the conditions were and are. The Commission is interested in anything concerning you or is a complaint or a disagreement between your neighbors, State or anything else. We will be glad to have anyone discuss any of your matters now.

CHIEF SPRING:

Mr. Chairman and members of the Commission and members of the Cayuga tribe, you have heard the Commissioner, what he had to say. If anybody has anything to say, we would like to hear it now. I think most of you understand.

DR. FRANK JAMERSON:

Addressed the Cayugas in Indian tongue but would not let it be interpreted.

MR. A.C. PARKER:

This Commission is concerned with the status of the Indian Tribes in the State of New York and charged to find out how they stand with relation to the government. Just what is your situation with relation to your white neighbors to the State of New York and to the Federal government? That briefly defines our problem and we must make a report upon it to the Legislature. The statute creating this Commission tells who the members shall be and explains their position in the Act.

We desire to help you, so please be kind enough to believe us or look into it and prove that we are not here

merely to enjoy enormous salaries and enjoy meals at hotels, for I assure you that some of them are not very fine. We are not receiving and extra compensation for this work. The Commission wants to report upon your position, as you stand, as you see it, and as the Commission shall see it, and we want to give you an opportunity to say what your situation is, what complaints you have against the administration: against existing laws, against any unfair treaty or unfulfilled treaty. We shall take up your troubles, your status with the Commissioner of Indian Affairs at Washington, in order that you may be given your full rights.

CHAIRMAN EVERETT:

Let me liken this situation to a man lost in the woods. We are not sent out to find him in any particular place, but to find him where he is, for if we know where he is we wouldn't have to look for him; but, as Chairman of this Commission, I state that the policy of the Commission, that is the status, relates to the relationship that existed between the American Indian and the white man and not necessarily a condition as it exists today. What is today has grown out of conditions in the beginning and it is the beginning we must get. You haven't anywhere near as many disputes as the white man has over his property as we are all the time having litigation over property and it is not strange if it is difficult to discover the boundaries of your property with a deed or record.

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insisted on talking in their own tongue and not allowing it be be interpreted, evidently being afraid to do so.)

MR. FRANK JAMERSON:

If I use the American language you could not understand it; but, I will speak English language obtained at school. We believe that in one sense we are under the government, we Cayugas are. We was taught as we are thereby we are not trying to be under any other law because that is the explanation what we think of amongst the whites and Indians of this country.

CHAIRMAN EVERETT:

You mean the Government of the United States and not of the State of New York?

MR. JAMERSON:

Yes, altho we got money from the State of New York and they withdraw payments and I therefore said we are under the Government and would have to commence under the United States Government.

MR. HERMON CHARLES:

One thing I can understand is this, it seems by the nature of things, it si for us to determine whether we want to be under the United States Government or the State and it seems my brother don't know which and it is up to us to decide which way they should go. We don't want to be dependents. If we go to the government to pay the annuities, that is what they are after, and it seems to me it is up to you and I to discover whether they want the Government or the State, if you would come one way or the other, we might know something about it, we are all halfway between. That is the way with the courts, it has been slung from one side to the other: Washington to New York and New York to Washington the troubles would be thrown from one to the other.

We are to decide which way we want it, we have to do that as near as I can make out. It seems right here at home are troubles for we have not so much trouble with the State or Government. I think a great many people came here today because everybody knows what is up and our annuities have an injunction on it and we don't receive it and we are all of us having ideals how it came about. I suppose if we prefer the Government maybe we won't get any more money as the State will want the money back that they paid out; that is the white man, he ain't going to lose any money. It seems to me it is up to us to decide what we want and if we prefer the United States those fellows will sue us what we should pay back.

CHAIRMAN EVERETT:

Now, we are not sent out as a Commission to discover who shall pay this money. We are not asked to find out if the United States or the State of New York should do it. We are not asking you to make a decision as to whom you prefer to have pay the money. As I stated before, it doesn't make any difference with our report and the money will be paid continuously regardless of the fact that we are inquiring into this subject.

There is no way that the State, Nation or any white man may successfully bring an action against an Indian to have that money returned because the man who paid it was the wrong fellow, that is not the question or the subject. It is to find out the business relationship that started with the white man and the Indian and what it has grown into and is today.

I am not going back to this because I want a long research; But I don't think I can tell how long the pole is if I don't measure it the whole length, nor how deep the well is unless I can go to the bottom. You cannot interfere or assist it

Let me say to you, it is sung in verse and recited from platforms that there is a law for the rich and one for the poor. In the courts of white man, we often attribute the decision with that influence and charge the rich with the treatment of the poor that was unfair. This is not white man against Indian, but white against white man.

I have been a lawyer for many years and influence is the means used to persuade the human mind to do this or that. The laws are sometimes distorted and twisted to take care of individuals; but it is the general decision and final judgement that shall state what the status is, the question must be decided by the rules as between white and white man. To illustrate;- If the white man is the guardian of the Indian and his property and affairs, he must make an appraisal and settlement that will be in accordance with the rules and regulations laid down for the care of the ward. Now, a guardian is appointed for the care of a person less than twenty-one years old, incompetent, not mentally able to take care of himself. These are the only two reasons for which the guardianship can be established. If you are wards of the United States, as has been stated in the opinion handed down by the United States judge, then the laws controlling the property of a ward must be administered according to the whiteman's laws in a similare case of his own. You see that status applied to neighborhood differences would fall short by the language of the statute which states that the status must be discovered.

The fee to the property of the United States rested in somebody all the time because that is a matter of law of the world. It rests in the nation of a people considered, under the law, capable of handling themselves as law abiding people. It is important in this inquiry to discover whether the Indians at the

by local condition of dissention or idle chatter as to how you are this morning, unless that has some bearing on the question.

The written history that has been connected with the business transactions of the Indian and the white man are important. I am not asking them because of a certain kind or class, I have go to produce a continuous relation from the start to the finish and if I leave out a link, it cannot be correct and we cannot guess at that matter. So, any information that will furnish any assistance to the inquiry into the treaties or trades of your people will be of assistance to this Commission. We want the truth.

An old landy (Mrs. Emily Tallchief), in the audience yesterday, told from memory, parts of the treaty had with Washington after the Revolutionary War as statements made by her father (Chief Cornplanter) who was a Chief at that time. It is a fragment of a record, we will admit, but is valuable as to the understanding caried down as to the intent of the Legislature in passing a law and is therefore valuable information.

The court can fight to a determination the conduct of what that law was intended to accomplish. You can't change an instrument and have it be of any benefit to any of us. Now, if that old lady should report to the Government of the State and the members of the Commission what was intended by the Washington Treaty, your record and mine would be of much less value than her opinion.

You will find these old people on every reservation and some of them with valuable documents of very material use in carrying us back to the starting point of the business relations of the Indians with the white man.

time of the landing of the first white man obeyed rules and regulations provided by the political division that was occupied by that people. To illustrate;- Every county in the United States has a Board of Supervisors elected by the people of that county from each town of that county and only for that county. They are a part of the government of that State and the United States and deal with subjects of certain size and conditions.

Now, if the political organization established by the Indians comprised the State of New York or half of the political division and lines occupied by special tribes and this is important for we want to discover if you were a nation holding a title and who took it away and how. Was it taken under and in accordance with the laws applied in this continent or in violation of the law.

The laws of the United States and New York State hold rigidly to the fact that the title or fee to land is never taken away from the lawful, legal owner except in a legal and lawful manner. We have the statute of limitations, that is you are limited to a time to get back the thing taken away, this applies to real estate. If a man gets a right to a contract to cultivate a piece of land and remains on it for twenty-one years without any other evidence to show it is his, he gets the right by adverse possession. But, If he mover there contrary to the wishes of the man who owns it and still stays there a million years he gets no title. This will be used in determining the status of the Indian in the State of New York.

I think I have now covered the ground, so you will see your statement is not in accordance with what we have got to have and what is proper and right for us to have.

CHIEF SPRING:

I will try to explain. They claim they do not understand and I will try to explain in the Indian tongue.

Chief Spring then interpreted Chairman Everett's speech.

MR. AUSTIN JOHNSON:

I will endeavor to say a few words myself regarding what you said. It seems you want to find out what kind of relationship we are to the white folks and ourselves and so on. To find out who has authority to do these things. I will ask you where was it made on the start? Who made all these treaties and stipulation? Must we go contrary on these stipulations not stand by your agreement with us? That is what this argument was meant for, no contrary whatever. Very well, then you believe this Indian ought to do something else, no! You cannot convince these people because they are young. I am their superior in age and come thru some matters; but we must suffer something anyway and live up to these stipulations.

I have listened to a great many controversies with the nations and the last one was this Seneca Nation ought to relinquish their Chiefs, they don't want them any more and went to work in Albany to pass legislation. They must have government similar to white folks and did accomplish and have new legislature or what you call it.

Here we are today, we are in this Seneca Nation, we are Cayugas. how we came here and so on, because this pre-emption right they called it. The white man wanted our land and wanted us to go to the Rocky Mountains and the Odgen Land Company got our lands. To make a short story, the orther day we looked over the contract etc., about forty years ago and to find out if there was a little money behing. We called on the Governor of the

State and asked them to "fork over" a little money, what is behind as they occupy the land today, and they did it. Since then I come to these things talking about the Seneca nation, come to find out, it was illegal what the legislature passed anyway, because the United States did not agree to it and they have to make an agreement and contract with the government of the United States. If that is what you want to do, legislate business, the State of New York will have to pass laws with the United States before it can be done. I don't know anyway unless these fools consent and only a few will be left and they might as well have died and do what the white folks want.

These folks are quite civilized, they are all smart and intelligent, they got good clothes and straw hats and other things. My clothes are old and today I have off my feathers and have on pants and that I suppose makes me civilized. I know a man who did have a good education and today we are in the house where his brother lived, Hick Parker. We have to consent under you, but the Chiefs right there, they are the ones to put their fist on whatever agreement you make. Before you came here I heard say there would be expression of litigation over the Senecas. I don't wish to settle and I thought you were the ones: but I guess you ain't the ones. I guess that will do at present.

ASSEMBLYMAN DE HART AMES

(Then presented the Chief with a copy of the Act of the State Legislature under which the Commission is acting.)

CHIEF SPRING:

Now gentlemen, you have consent now what you want me to do, I will do these all.

CHAIRMAN EVERETT:

We will send you copies of the Laws and Treaties of the

United States and the Indians and also with the State if we can get them and would ask you to compare with what records or traditions you have and when we come again, let us hear what you have found.

MR. SPENCER GORDON:

I don't believe they can give you the information you want or you would have it by this time. I think if you give the people a chance to talk the matter over and I don't think it would be a bad idea to talk the matter over a few minutes.

CHAIRMAN EVERETT:

We would like to have you understand the conditions as we do so there will be no misunderstanding to start out. You may know something when we come back that you do not just now, something that relates to the history, transactions and dealings of your forefathers and mine, that is what we would like to have.

MR. GORDON:

(then spoke to the Indians in their own language but it was not translated.)

CHAIRMAN EVERETT:

It has been suggested by members of the Commission that I had better explain to you, because of stories reported in advance of our trip, that we are here for the purpose of accomplishing something for the Land Board or in the interest of citizenship. I never like to be ahead of the complaint with my answers, as it looks as if I knew too much about the complaint. It is no part whatever of our mission. No State can create citizens, for you must be a citizen of the United States first, you can be a resident of the State but not a citizen. I can express my opinion and have done so on other reservations. It is this, if I were an Indian I wouldn't allow the white man to seriously discuss the question of citizenship until our business relations were settled. This is my own personal opinion and not official nor the opinion of the Commission, the members here are at liberty to take any position on that subject that they see fit,

because it is not official nor will it affect this inquiry, as it is no part on the inquiry nor will it affect the report. As to the Land Board, that is a set of individuals made members because of their official position, and the matters that come up before them, I know nothing about. It is no part of my duty and I do not want to interfere with anything that does not concern me nor benefit anybody.

MR. LOUIS JIMERSON:

I can speak a little. I have been schooled very little to the third reader book is as far as I have gone. Now, what I hear about that relationship. do we all know about that? I will take it this way, the relation in the olden times when the white man and the Indian talked business, dealings of any kind, we all know we have been beaten from that time and until ever since everything is declining, cutting off, you are doing it, the white class of people we dealt with and associated with, they are doing it. What is it for? Because you have got money. They are going to have the Indians land, they want it for a little or nothing because it has been done in olden times. We have been robbed and yet today, for I would say I just lost the interest money. I can't rob the white man money but the white man will rob the Indian money so they are doing it more or less every day.

I learn our friends has come in peace and unity for our good, for our best, what we should do to be more prosperous and do well which I never heard before of such person. From the bottom of my heart, altho they are white men, maybe my eyes are deceiving me that they are white men, I can't say what they are up to, but hope it is for our best, so excuse me gentlemen that I put it in such a way. We have been stripped. it is very queer, I am standing here with clothes on for I have been stripped. Think of it in olden times my forefathers, we had land and dealt with the white man, the Cayuga Lake,

where is it all now? Just think what a great robbery that is to sell the land for a cent or two and acre! That is the one point you people want to see to it what the reason is they are so hoggish and with the Indian and attorneys they use the Indian as a dog. When they do make a haul, the lawyers will have the best piece out of it and the Indian what is he going to get? He gets the hoof of it, that is the way it goes. I see you are coming again and shall sweep it all to you, let you know all what little ability I have in our relationship and so on for my peoples' good. I hope you come soon.

CHIEF SPRING:

The lady told me to ask you at the time passed when the Cayugas were immigrating along they stopped here at the Buffalo reservation and to this day she lived here and married a Seneca, has she a right her? The old Cayugas took the portion of money out and put it in the Seneca Nations Chiefs of that day. Has she a right here?

CHAIRMAN EVERETT:

I understand that the Indian law relative to internal affairs is not the same as applies in cases of white man and so far as that is concerned the law of inheritance is different in nearly every state. As you are probably aware, I will state that in New York State, a woman can handle her own estate without asking any support, help or assistance from anybody, after she is twenty-one years of age, whether married or single. If she owns a farm she can deed or mortgage and will it away without asking the consent of anybody. Her husband can only dispose of his real estate by getting her signature to every disposal he makes.

In the State of Connecticut, a man can deed his property away and mortgage it and dispose of it as he pleases and destroy his wife's entirely. As I understand it, the Indian consitution of the disposal of property is different from any of the states, and it would be impossible for anybody to state the rule as it has never been

established by court decision. The question is undetermined as to the right of either the State or Nation to interfere with your own laws anymore than we could or would interfere with the internal disposal of property in Canada.

Let me tell you that this question has never been determined decisively as to whether you are under the supervision and subject to the laws of this country at all. If the treaties and trades of the different Indians on what are known as reservations mean what they would in every other instance, then the boundry line on every reservation is the boundry line of another country, subject to your own laws, rules and regulations. So, I really couldn't tell you what your rights are today. If custom establishes a rule of law, then your custom is law and you know more about that than a white man does.

MR. AUSTIN JOHNSON:

In regard to that I am pretty old and didn't know there would be such questions as that. The Senecas changed their Chiefs and went into council similar to white folks and have today laws we must obey. We must marry be minister or peacemaker or it is not legal. So they are trying to follow these lawas all they can; but it seems they don't really follow it but do as they choose about it. We have clans, wof, bear and othe wild animals. The old custom was when a man dies his parents get what is left. A Seneca makes a will and leaves it all to the ladies and children. That is their rule and my rule is different. The law is all right if they followed it that is all.

MRS. NEPHEW:

I don't know as what I say will have anything to do with the relationship of the white man and Indian. We are more interested in the Senecas married and intermarried and in the Senecas who want us to pay for living here when our children are more Seneca than Cayuga and the white man don't ask his women to pay for their keep or his family.

You see we are married and intermarried and why the Senecas could ask us for board and keep I don't know, do you? I understand there is a Mr. Ames present. I would like to have you understand the bill they want you to pass. We have lived here for years among the Senecas and Mr. Eli Johnson has papers and treaties and at another time you are going to collect these and I don't see why the Seneca men want money, my money. Why should my brother who lives in Buffalo pay for not living here? Why should I pay? You might help the matters in our case later. The Cayugas are jealous because they didn't get Cayuga women and we won't stand for it. I don't know but I will tell you how it was why the Cayuga have to pay, in my mind, I thought it don't hurt but I don't care if it does hurt. Why should they collect from us, and other half breeds live free? There are the Munseys drawing money and the Senecas don't make them pay, why don't they? We are married and intermarried; but the Senecas ain't kicking about them.

CHAIRMAN EVERETT:

May I ask if you pay for the land you occupy?

MRS. NEPHEW:

I understand they did pay years ago.

Q. But lately?

A. No, we haven't paid yet.

Q. So far you have kept from paying?

A. Yes, but they are holding back money, - the State of New York, The Senecas got an injunction and the State of New York won't pay us the money.

HON. DE HART AMES:

Mr. Chairman, will you permit me to answer the lady?

CHAIRMAN EVERETT:

Certainly.

ASSEMBLYMAN AMES:

I never had nor expect to have any dealings directly with the Indian finance or otherwise nor hold any interest affecting the Indians. There was a time when the Cayugas sold their interest in the State for \$248,000. I am reliably informed that the Cayugas have been receiving the interest at 5% on two-thirds of that amount and that the interest on the remaining one-third of it has been paid to the Cayugas in the western territory. I have been unable to find any authority for doing this. This sale or settlement with the Cayugas was done thru an Act empowering the Land Board to make the Settlement and also stated that the section of the Land Board must be approved by the Governor.

MRS. NEPHEW:

There was a treaty made and I was there at that time and it went to the Governor, Huges or Pulzer, signed it and because they put him out of office, I expect they threw everything out of the papers.

ASSEMBLYMAN AMES:

After having a search made by the clerk in the office of the Governor, Secretary of State, Comptroller, Attorney General and Treasurer, they reported to me that there is no record of any statement whereby the Governor ever approved of this settlement.

MRS. NEPHEW:

Then why did they pay us that very same Fall and we got it for a number of years?

ASSEMBLYMAN AMES:

I am unable to answer that question. The Seneca Nation thru their counsel requested me to introduce a bill which I did. I believe that last year, the Comptroller refused to pay on account of action taken by the Land Board. Various persons asked me to have the Land Board empowered with the authority to pay this money and when decided I

am informed this will be straightened out. I know very little about Indians and have no interest, financial or otherwise in them except as I have been placed on this Commission by the Speaker of the Assembly to aid in working out a solution of this complicated matter.

CHAIRMAN EVERETT:

For you information, I will say I have a recollection of a bill which was passed last year carrying an appropriation of \$60,000 to be paid to Indians in the State of New York. It passed both branches of the Legislature, Senate and Assembly and went to the Governor for his signature. The Governor wrote me a statement of the reason why he vetoed the bill, the principal one being that inasmuch as it is the duty of this Commission to inquire into the facts of the status of the Indians, he would hold the matter up pending the decision of this Commission. That may be the case to which you refer; but I am not sure. But don't get excited or nervous, we are going to settle it. We want the truth of the treaties so far as on record in the Secretary of State's office of which the fire destroyed some and what you have either written or traditional and perhaps this tangle of two tribes occupying the same reservation can be adjusted by the information we get in this case.

DR. R. W. HILL:

I have listened with a good deal of interest to the statements which have been made by different members of the Cayuga people. I was especially interested in the statement made by our old friend Jamerson who in speaking of this Commission said he was glad to see that they came with the interest of the Indians in their heart. That, however, some of the Indian's suspicion was left in him so that altho he had that feeling it was accompanied by another which prompted him to look down to see if possibly something was not hidden beneath the table. I want to say for this Commission, it speaks with one tongue. It has come to obtain such information as will be helpful in the end

to the Indian people. We are here to understand the present status of the Indian and that status as it affects the various relations which the Indian sustains to his own people as well as to other people, and which will affect the future even as the past has been affected. As we come with that purpose, I can tell you that we are absolutely unselfish in the matter. We are none of us after one dollar of any moneys that you may have nor after one acre of the land held by the Indians of the State, and if you were to sit down at this table and write a deed conveying to the State of New York or to this Commission every acre you have, why we could not take it if we would and would not if we could. We have no such authority and we do not want it. You might say, you would give us all the money held in reserve and if you offered it we would not take it if we could and we could not if we would as we have no legal power to do so.

We are here for a definite purpose and it will benefit every man, woman and child, all the people from the oldest to the grandchildren you have left today in your homes. We want to do justice, the right thing, so that in the end, you can stand on your feet, looking the world fairly in the face, and feel you are receiving the treatment which one right minded person should give another. You have friends in the people of the State of New York and the United States and no matter what the past may have been we are going to work together, doing the best possible in our day and generation so that when the time comes for us to pass on, we shall leave a reputation which will be honored by our children our grandchildren and those to follow. No matter what you may hear going about regarding this man or that, remember this Commission is not double tongued. What we do today, we do not receive a compensation for, except the satisfaction of knowing we are doing good to the Indian people. I am sure when you understand it, you will help us in every way possible to accomplish our task.

CHAIRMAN SPRING:

Mr. Chairman, I am very sorry our head man isn't here today, but glad you are coming back again. We have treaties and go by it and will never break it, that is my way. Anytime you want to write to our people, we will notify the people, we have done it and filled the agreement of the secretary to be here at two o'clock. I didn't know it would be ten in the morning; but as I say as long as we are Chiefs, we are going to be Chiefs. We are not going to follow any neighbor here, he is a counsellor, he left us his own people. We will never break the treaties, what my uncle has in his own safe-keeping; but be sure to send what you promised, we want it. We didn't know what you was coming for, we did not understand. I am sure I don't understand just as that gentleman said I only been to school two or three days. As I see the people here and talked with them, I learned they will never leave the Chiefs, they will never break. So, there are lots of things that I know I ought to say and am glad to come again and guarantee you get what you want. We understand pretty near what you want. As to more of my people here, I understand it don't amount to you Commission. If there is anybody in the house in that way, I would like to her, we want to find out. I don't know what the other nations done, maybe it is different, what the Senecas done. I was called here this day and am here; but shall never break the treaties we have got them.

We are under the general law; but not the State, I don't go by that never. I am going to the general government; if anything happens he promised to do right. We have been robbed all the time. Now, hurry and say what you want to about the question.

CHIEF SPRING:

I am glad to hear the improvement for my people some can speak English as broken as I can, but I speak very well because when I was small I worked among the whites. I listened to the Chairman and

the people and it seems some of the people were off a little from what those men want. We have had little time and made no preparation and I think you spoke that you will come again and I know there will be some help for you from the Cayugas here then.

There are some things the Indians are queer and peculiar, they keep something behind that it may come handy for the people and I know today there is lots kept behind and I think we can bring those to be of benefit to you and give us time. I am glad to meet you gentlemen and hope I will meet you again. I am going to try to keep the interested in this meeting with you today

Mr. William Lawton, Lawtons, New York, was present at this meeting, being New York State Agent for the Cayugas, but did not speak.

CHAIRMAN EVERETT:

The question involved in the division of the money resulting from the sale of lands is very much complicated and I should like the opinion of the older people as to the sale and will do my best to assist you in settling your claim. We will call this meeting closed for the present.

ALLEGHANY
RESERVATION

August 16, 1920

PRESENT:

HON.	Chairman of New York State Indian Commission
HON.	Member of New York State Indian Commission
DR. R.W. HILL	Member of New York State Indian Commission
DR. A.C. PARKER	Member of New York State Indian Commission
HON. DAVID R. HILL	Member of New York State Indian Commission

CHAIRMAN EVERETT:

Mr. Chief and people of the tribe, this is a Commission authorized by the Legislature of the State of New York to inquire into the status of the American Indians residing within the State of New York. It is proper to tell you the reasons for the organization of this Commission. An action was commenced against some Indians for violating the game law and they were arrested and a trial had some two or three years ago. The result of that trial was that opinions were expressed both for and against the prosecution to the effect that the Indian was a ward of the United States. It developed in the case, in defense of the Indians, that the State Court had no jurisdiction and this for the second and not of the State of New York, it was illegal to pay out any money concerning them for carrying on schools, assistance for health and other matters or a treaty that had been made.

I discussed this matter with the Governor and it was not deemed proper to discontinue the payments of money as how made to the Indians on the different reservations because of that decision and therefore the Legislature created by a Bill a Commission to inquire into the Status of the American Indian residing in the State of New York. That Bill provided who should be members of the Commission, the Attorney General, the

Three State Departments and the balance of the members from the Senate and Assembly. That is usually not important to you, but a part of the case, and proper to explain why we are here and what our mission is.

The meaning of the word STATUS, as stated in the statute, we have construed to be broad enough so that in order to answer in this inquiry as to the Status of the American Indian living in the State of New York, we feel we must go back to the first business transaction and treaties between the white man and the Indian.

We are not here to change any conditions here or clothed with authority to do that; but to report what your status is. We are here to ask you to assist us in that. We feel that in order to properly perform this duty, we must have information as accurate as it can be secured regarding the treaties and trades made with your forefathers and we are also here to find out if those treaties or trades were in accordance with your understanding of them and if they are being carried out according to the letter and spirit of the transaction. We are aware of the fact that the Indian not being schooled to read written instruments, when he found out that the practice of the white men in carrying out the contracts made was not in accordance with his idea of the trade or treaty they had made, there arose some serious difficulties. We are aware of the fact that the conditions well warrant that the Indian got the worst of it.

This commission is aware of the fact that you are Indians, and because of some treatment you have received from the white man, you are warranted in being suspicious of any organization sent by the government of this State or any state or of the United States or any individuals until they have obtained your confidence or that you feel they really are attempting to do you justice.

re to find out just what has been done and are proposing to sit down with you and representatives of the United States government and such further officials as may be necessary and make a just and proper determination of what should be done after we have discovered that the status of the Indian is. We are not dealing with any special tribe or location but with the Indian problem in the entire state. What your difficulties may be here relative to the treaties you made or the conditions that exist now, are not material to the inquiry further than the fact that they may lead us back to what the original trade or treaty was.

We propose to ask you to assist us. We propose to send you, if you do not already have them the copies of the Laws and Treaties made with the Indians and the United States government and with the State of New York if we can obtain them, from the time it started as a colony up to the present time as well as copies of the minutes taken at the different reservations we are now covering. After you have compared these volumes and read over the minutes of the various meetings and find that you have something to report concerning these transactions, we will come here again and hold another meeting with you or just as many or as long as there is a prospect of discovering anything concerning this question. After that we propose to hold a meeting with all the Indians in the State possibly by representatives of each tribe, and take up together all the things we have discovered and have before us the written statements gained during this inquiry and compare the status of that condition with what the records or information may show.

It has been reported that we were around for the purpose of creating sentiment to induce the Indians to become citizens of the United States; but , we have no such power and it is not the business of the Legislature of the State, that is a United States government function. We bring no such recommendation and have nothing of that kind in our minds. Furthermore, not speaking as an official, but as

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an individual of the State, I personally believe it would be better to first settle this question of the status of the Indian before the question of citizenship is taken up. As an individual I would advise that and if I were an Indian I would take that position.

If I have made myself clear regarding the attitude of this Commission and what we are here for, I will state that we are now ready to receive any suggestion and enter into any discussion that will be of benefit to us in making this inquiry. I would further say that we have asked the Indian Agent to come to this meeting and he has expressed his willingness to do so and is here and any question concerning the management of his department, he will be glad to answer or discuss with us at this meeting.

MR. HUFF: (an old soldier spoke in Indian tongue and translated as follows:)

I can only speak for myself and I think what I say will suit the people in common here. In the first place there was a treaty between the United States, and Six Nations of New York Indians and we have always been held as subjects of the United States and not as of the State of New York. We want as people to remain as God Almighty made us as other people of different color races. It was the Great Creator that cause that and this people don't want to change that, let it be as it is. I mistrust I may be wrong and hope I am, that there is an element among some of our white brothers to get this land away from us as they already have gotten purchased by fraud and deception from the government reservations and our own officers. I think that is enough we want to remain just as we are. The State of New York will adhere to the people of the State and we want but protection by the Laws of the State and the Nation and by the decision of that mortgage the United States government reinstated against the State Law.

How long do you think we would exist without the United States government? And I think too in the mind of the whole people we want to remain there. We have a government of our own that don't agree with some of us; but, we have to put up with it. We don't want to be removed from the charge of the United States Government. The Constitution of the United States says that treaty stipulations shall be the supreme law of our land. Does our Great Father, President of the United States want to take from that and violate that treaty when the Constitution says it shall be the supreme law of the land? The treaty of Ft. Stanwix is treaty made with the Six Nations and the United states and it is as good today as the day it was made. All American was ours once, but after that war between Great Britain and the United States, and the United States gain independence, the division line was drawn between the United States and the Indian Six Nations of New York Indians and treaty stipulation shall be the supreme law of the land so the Constitution declares and I don't think it would be good policy for us to break away.

We look to the government for protection altho I think some men in Congress would wipe the Indians off and many in the Legislature and thru the information of some unprincipled white man on the reservation today, I have heard that remark made and am glad the agent is here. Now, if anybody wants to know different, I would like to hear from our people. I heard some of our people want to become citizens and divide the reservation. As for going back years ago before the Revolutionary War, it is only handed down from one generation to another and I have no knowledge only from the treaties of which I have a copy of some. But, if you want to know what has been told us, some older man probably could tell more than I can but my ancestors always told that the United States and George Washington made a treaty with the Indians and the line was drawn and the Indians would be protected in all their rights and not be intruded upon. If

that is so, then take that in accordance with the treaties in existence, why does the State of New York interfere with it? It shows very plainly there is some element to work to wipe the Indian off. They haven't got land enough in Salamanca and want more in the Attorney's office they have men who try hard to represent the State from Salamanca for the interest of those Salamanca people in procuring the Indian land probably for it is so much better land. There is other treaties made but that one in particular, the line was drawn and the reservation laid out and I think the United States Congress the Indian Department should enforce that law. I know there is some young men here, because they have been inside of a school house, I hear them say they are ashamed of their coloring, that is all wrong, I don't care what color a man is if he is honest and truthful and a man of word he would soon become President of the United States because it makes no distinction what race and color as long as he is honest, upright, and just. But, I find a great many times a great many scoundrels get in the Legislature and Congress. I believe I have said all I want.

CHAIRMAN EVERETT:

Your remarks develop the case and I am very willing to listen to complaints actual and imaginary, but we don't want to wander too far from the question in mind, the mission of this Commission. The State of New York is distributing about \$150,000 a year to the Indians of the State. The law provides that you can only pay out money for obligations contracted by the State. It was not a State court that said we have not the right to pay that money out, but a United States Court. Now, a United States Court takes precedence over a state court decision and it was this United States Court decision that compelled the State Comptroller to refuse to pay out any more moneys of the State. The State is not obligated to expend what it has on the Indian and yet while this question of the status

is pending the Governore has agreed not to dispose of assistance fort the Indian and last session the Legislature appropriated \$20,000 -- \$10,000 to be used in the pursuit of agriculture on the reservations and the other \$10,000 to buy and equip a high school on the St. Regis reservation. I agree with you, you have a grievance and I pledge my best effort to help solve it and return to you what belongs to you if the facts are proven and the decision rendered to the effect.

Let us see what has been done to the Indian of American. I am not complaining because you feel an animosity, you are entitled to; but only ask you to defer your judgment until you find out what this Commission does. If this Commission fails to solve the Indian problem so that no man can complain, don't every believe anybody again. Don't believe this Commission until your are satisfied they are honest and sincere in their attempt to solve the problem. Your complaints are proper because they are leading us to the place from which they started; but I want you to get the true attitude of the case and say that New York State will proceed on its former course in the handling of the Indian matters until this is determined if it takes the lifetime of the Commission. I am not speaking without authority but have talked with the present Governor of New York as well as the prospective governor if the present man is not re-elected and the attitude of both men is the same. Your complaints concerning schools, etc. will be heard and the manner in which you have been controlled and supplied with money and material, it will come along in the regular course.

This is a serious legal problem There were several treaties made by New York before it was apart of the United States. It did it as a colony. Now the Attorney General of the State of new York and of the United States will take up those questions and decide whether the obligation was assured by the United States when it was formed by

he union of the colonies or whether the State still maintained and assumed the obligation taken prior to its entry into the Union. You will have to be patient with a subject of that kind as it is a new one and if the law says you must be supplied under treaties made by your forefathers with the State as a colony we will have to be satisfied with it for we must abide by the legal decision.

I complain at this decision. I don't believe it sustains the law as it is misleading; but until reversed it is the law. A statement written by this Judge that sustained the throwing out of the white man and the reinstating of the Indian I think is on the wrong theory. I am not a judge, only a common lawyer. This judge states that the Indian is an alien that means all the Indians of this country were and are aliens and in the next paragraph he says they never disposed of their right of self government and in the next states that they are wards of the United States; three conditions not compatible. Now, to illustrate, an alien is an Irishman in France; but it isn't for this meeting to quarrel with this court; but rather to find out the facts and see if we can't render by reason of the facts a reason for different decision. If we are told to find a man who is lost, we can't intelligently direct you to find him in any particular place, but must look until we find him, for if we could tell you where to find him, then he certainly is not lost. So, we are not here influenced one way or the other by any phases of the case. When we get thru we will have counted the members of a family and told you their names, where born and who the father and mother was. This is the inquiry we are trying to make and we appreciate that your not having kept records which were written can best supply us with information to lead us to proper conclusions by carefully giving us the construction your people have handed down from one generation to another of the treaties and trades made by your fore-

fathers with the white man. For example: We get into difficulty interpreting a statute reduced to writing. The Judge often have lawyers inquiring what the conditions and the thing was they wanted to provide rule for when they enacted the law. Now, at the last meeting an old lady, Mrs. Tallchief, stated in Indian from recollecting what her father said concerning treaties and with George Washington in 1788, and what their interpretation of the treaty was. We want such evidence as that. It will assist us to find out whether some ambitious, eager representative of the government didn't make a construction of what that trade was that was beneficial to the white man and detrimental to the Indian. Did he carry it out as it was made? The Indians never had any trouble interpreting a contract because he executed it all the time, it was a continuous performance. If he started to travel west, he kept in that direction. All these things enter into this inquiry and we are more anxious to get your support and to have you feel that we are not interfering with your affairs but want your assistance in comparing the records as you understand them with our records. We impress this because this must prevail or the completion of our mission would not be of any benefit to anyone. We must determine on account of this United States decision whether the State of new York shall pay this money that is being paid or say to the United States government, -"You have taken that out of our hands and you must pay it." However, I can assure you that the State of New York will never be satisfied with anything less than what you are getting. Further, I can say that so far as one department is concerned, you will be better and more generously treated than before and this is by the Education Department. I have it from the head of that department that you shall be supplied with every facility the same as anybody in this State and the Governor now in office or whichever may be in office will sign and approve an appropriation to accomplish that.

. WALTER T. KENNEDY:

Mr. Chairman I would like to ask the Chairman one question,-
"Do you consider the solemn pledge of teh United States of any
significance?"

A: Certainly, I do.

Q: Do you consider the Constitution of the United States of any
significance?

A: Yes sir.

Q: I have here some volumes for the use and guidance of the United
States in its dealings with Indian affairs (Mr. Kennedy read from
Treaty of Ft. Staneix, 1784 and 1789) Now, Mr. Chairman, when you
say the line between two territories, can you include that territory
inside?

A: I should say not.

Q: Then these lands of teh Six Nations are outside of teh terri-
torial lines of the United States according to the intenatinal law?

A. Yes sir.

Then Mr. Kennedy read FROM Kapplers Indian Affairs, Laws & Treaties.

Q: Now, the Indians pledged the United States they would never claim
any land outside these territories. Am I right?

A: Yes sir.

Again he read from Art. 4.

Q: Can you get around taht? Can the State of New York get around
that being a part of teh United States?

A: I do not assume to, - No sir.

Read from Article 7.

Q: Now, the United States acknowledged all the land between to be
the property of teh Seneca Nation and will not disturb them, etc. it
shall remain theirs until they choose to seel to the United States.

What do you mean when you say that?

A: Just what the language says, as far as I am concerned.

Q: Is it true or not?

A: It is a solemn pledge of faith but you can't ask me to carry it out alone; but I will do my best to adjust the matter.

Q. Can the lands of the Seneca Nation be considered a part of the State of New York?

A. No, they cannot.

Q: Can you enforce the laws of the State of New York outside the territorial lines of the State of New York?

A: No sir.

Q: Now, what do you mean when you say that; that is the law of the United States which the State is bound to respect?

A. This commission does not take an attitude adverse to that. It is here to inquire in what trades were made with the United States government by the Indians residing in the State of new York and by the State of New York if they resided here; we are here to get the records and the report ought in our judgment show the status of the Indian.

Q: Just what do you mean by status?

A: The status will state whether you are in a treaty or trade with the United States or with the State of New York. We must do that to find out who shall pay the money now being paid by the State of New York. Further, in a visit I had at Washington with the Indian Commission they stated to me, as Chairman of this Commission, that regardless of whether it is our obligation or not, that we had better take it all; but I said we cannot assume that, the Indian must have something to say as the Indian made a treaty with the United States or the State and I maintain that nobody can be substituted in that place without the consent of the Indian. You will admit that, everybody will. There is a difference existing, a difference of opinion, as to whether all these things have been done by the United States and the State of new York and if they are in accordance with the trades and treaties made. This Commission is to get the record and sit down

you as Indians and with officials from the United States government who represent the United States government and find out just what we have done and the troubles now existing and then write a report stating just what those conditions are. If we write a report that isn't the judgment of the Indians, is not in accordance with the truth and fact, you are or shall have the right to write a report to correct it and I will say, as Chairman of this Commission, I will present yours to the Legislature as they must pass on our reports.

I wish you would get it out of your minds that we are here to change anything or do anything other than find out what has been done. We make no promises, for we are powerless to carry it out other than report the truth of what has been done. We are not here to say you should go under the jurisdiction of the United States as we have no right, it is your business, if you have a choice in it.

You read from the Laws and Treaties of the United States with the Indians and there is a later volume which I will send to your reservation. Now, we must take those official records, those of the State of New York, and find out if the Indians of the State of New York made one trade with the State and another with the United States covering the same property. I am not to blame for that nor are you. We want to find out if it is true and take up the question from a legal standpoint and find out which trade carries the title of the property. We need not differ over that now, it would be foolish to quarrel about it. We don't know if it ever occurred nor in what cases if it did occur. You will be given an opportunity to study with us and I shall furnish every reservation with a copy of the laws and Treaties such as you have as well as the treaties and trades made by the State of New York if I can obtain copies as well as copies of the Minutes of each meeting held on the various reservations which we are now covering. You will compare the statements made by us and the individual Indians on other reservations, you will compare your

records and traditions with what we have, so that when we get ready to settle this question, we will have everything the past has written into it. The records of the past will be the history of the business transactions between the white man and the Indian of the State.

We pledge you our honest attempt to see that the conclusions arrived at after the facts are known shall be such that nobody, Indian or white man, can say it is unjust or unfair. It is the intention of this Commission to destroy, if necessary, any trade or transaction which was decided to the detriment of the Indian and advantage of the white man. We propose to right the wrongs, so far as our report is concerned, between the white man and the Indian; but, can't until we have all the facts. If your father made a bad trade, I don't pledge myself to correct it anymore than you can; but if the government of the State or Nation was connected with a transaction known as a trade or treaty in which they deceive the Indians and thereby secured their property, I say that in the eyes of the law, that is no trade. Possession by fraud does not carry any title either by individuals or nations and we are inquiring into that. There is no progress gained by discussing what is going to happen when we establish the facts of this inquiry; we can only report our intention of treating the subject in as capable a manner as we know how. We cannot assume and apply an amount of wisdom which we do not possess, we would all be grateful for more than we have and plead it is not our fault; but we can at least be honest. We are sincere and shall take up the treaties from which you have read extracts and make an inquiry as to what because of the land described in those treaties and by what legal procedure they were disposed of, and as to where and how it happened.

MR. KENNEDY:

Do I understand that what you want to know is how the State of New York come to spend \$150,000 for the education of some of us Indians?

CHAIRMAN EVERETT:

No, practically all that money is the result of the State's attitude to supply the Indians on reservations with the same treatment accorded the white man in the State , as to schools, health, sanitary conditions, etc., except in such cases as might be an annuity growing out of a treaty made between the State of New York and the Indians.

MR. KENNEDY:

You want to know if we Indians have any treaties in existence wherby the State paid out this money, is that it?

MR. EVERRETT:

The State of New York, at the time of this judicial decision was paying out certain money to Indians. We had a legal right to do so as they were residents of the State and we considered it a legal and proper expenditure of money. This Judge, I think, goes outside of his duty in making the decision that all Indians are wards of the United States and in the opinion of the attorney-General of the State of New York, if that decision remains the law, we must amend our statutes or cease to pay money for people not subjects of the State. Now, for examples:- If a man were in the position of dependent and lived in the State of Tennessee, you can see that it would be illegal for us to support him altho, we would support him, if his residence were in the State of New York, but when he moved into Tennessee or Pennsylvania or any other state, we would have to stop supporting him.

this expenditure of \$150,000 is not an obligation or contract in the nature of a treaty. The Indian didn't arrange to be furnished with schools, etc., when he sold the land or one territory for another; neither did he arrange that the Health Department should inspect his property and attempt to control him in the management of these matters or things that have grown up. The State has thought it necessary for the general welfare of the Indian.

However, the opinion hits us just the same and the Attorney-General says you must not pay out more money to a subject with whom, you have nothing to do but who is subject to the United States. It is barely possible that the question could be settled by statute handing to the State of New York the right to administer to the Indians in the State in the manner in which they are regardless of the fact that the Indian is considered a ward of the United States government. If the State of New York were willing to take such authority to act, it would relieve this particular financial condition; but it would not solve the STATUS of the Indian. Not to prolong this, let me impress you with the thought that the Indian problem has been up ever since Columbus landed on these shores. Now, the white man has gotten into a tangle with himself and to settle that matter your problem can be settled. Bring in your side of the case, help us to bring it in; you shouldn't be afraid to have it decided upon the truth and fact; for if you are, I shall lose my idea in the stories that injustice has been done you. If it has not been done, you will not be benefited by the inquiry; but if injustice has been done, you should be benefited by the inquiry; if the facts warrant such a determination, I say that we shall continue this matter until

determined that question between the State and the United States and to treat the Indians on the reservations as heretofore, no, I think a little better, for I am sure that the Education Department will take more interest from now on. Does this explain to you the real attitude of the inquiry of this Commission?

MR. KENNEDY:

I think I have an idea of it now. But why do you come to us Indians to solve the tangle you white men got in? Are we supposed to have records of what you have done voluntarily?

CHAIRMAN EVERETT:

No.

CHIEF WALTER KENNEDY:

I happen to be to the conference held in Syracuse a year ago March and Dr. A.C. Hill spoke of the Indian schools and said;- "Don't always be holding your hands out for help." I resented that speech as you or any other official of the State of New York can find any record or no record where in the Seneca Nation asked for assistance in educating the Indians unless it be of individuals. Now did your schools come first on our lands? Thru the different religious societies of the white man and it is to these that you should say;- "Don't be always holding your hands out for help." and not to us Indians. If you want to solve this problem of the State's paying \$150,000 we are not to blame only are the beneficiary of the Act.

CHAIRMAN EVERETT:

I think I should try to correct the impression you seem to have that we feel we are in any trouble over the expenditure of this money. We are not in any trouble over that. The fact that we are

paying out that money and the fact that the Judge decided that the Indians were wards of the United States makes it necessary from a legal standpoint to actually determine what the STATUS of the Indian in New York State really is; that is, what his business relations to the white man in the State were. You are not being charged nor is the insinuation being made that you are holding out your hands to the State to have the said money and benefits go to you, no such attitude is being held out by this Commission. We are not responsible for what Mr. Hill has said. I tell you that if I were responsible for him, I should cease to be so in the regular course of the disposal of such a man, that is my attitude. What we ask you to do is to assist us to perfect our records in the history of the Indians. That is our attitude, we must have the true history of the business relations between the Indians and the white man in order to tell what his status is. Does that better explain our attitude?

Mr. HUFF:

Now and in what way can we assist you in this inquiry?

CHAIR EVERETT:

We do not expect you to discover at this time or expect you at this time to hand us any amount of history relative to the Indians of the State. What we do want to do is get acquainted with the different reservations, view the general conditions on each reservation, state what we have to discover and state that we will produce all the written documents that are in our possession, concerning the transactions between the United States or the State of New York and the Indians. We will furnish you with these so that you may study them and compare them with what you have or what your forefathers handed

down as tradition. See if these records agree with your ideas of what they meant and if the manner in which it is being carried out agrees with what your grandfather said and be ready to tell us when we come back just what you know. Let the people of the tribe study these records and talk it over among yourselves and try to let all the people know just what the inquiry means and what it is we want to know. Let those who can intelligently grasp and criticize or sufficiently endorse the treaties, tell from memory or record just what they understand the treaties or trades to mean. Then, when we come back you can assist us in a statement as to whether everything intended by all treaties made is being fulfilled as you understood they should be. Does that make our attitude plain? You cannot quarrel with me at this meeting, we will reserve that until another time when we know just what we are differing about.

MR. HUFF:

I haven't a doubt but what this Committee will faithfully carry out their commission. But, now the thing is my mind is this. What information do you want me to give you? I think I understand your mission and ask what do you want me to do? I would be willing to assist and inform you in what you want to find out. All I depend on this day is the treaties made as the Constitution of the United States says the treaties stipulation shall be supreme. Even if we should show anything that would conflict, it would be only as handed down by one generation to another and it would not be held in court, as the best evidence is written evidence. I think that most of my people would be willing to do this.

CHAIRMAN EVERETT:

I want you to me;- Can you state you belong to a tribe of people or a nation of people who owned this country when the white man came here? If you did, I want you to then trace back to the transaction that started the white man's getting possession of it. I think it is fair to outline to you the importance of this inquiry's going back to the first transaction and the question of title being in a nation. It is true that the European Nations, at the time that Columbus discovered this country, had a scheme of acquiring title on two different reasons. One, that they found a people located in a territory that did not maintain any form of government and then drove these people off as we would the wolves and took their property such as they had. Second, if they maintained a form of government or were a people controlled by rules or established regulations, established either thru crowned heads or the operation of self-government, they drove them off just the same but took the property thru the fee right which they maintained an organized government has the right to do.

It will be necessary in this inquiry to find out whether the Indians were a nation and of a nationality and maintained a government that claimed its own governmental rights and functions over the people living in this country. To illustrate:- In theory the King of England has the owner of the fee of all the land his cominon extended over, and could grant the income to as large an extent as he desired and could enforce but this theory was considered to be a right that government exercises. You get a deed from the United States for territory in the west and that deed is an evidence of ownership, expressed in its terms, and sold by the United States government and you and I and every-

body who is a citizen of the United States has parted with a part of the territory of the state thru that legal channel.

We are confronted with a condition in which we find some company bought land from the Indians. Now, the Ogden Land Company have a claim to a fee in land in this state, theoretically their fee is the same thing in ownership of real estate that the King owed. When the King planted his flag here, he became possessed of the fee to what territory he depended on his ability to drive the people in possession off. We must first find out if the King of England, France or Spain, taking title by conquest became the owners in fee to this land. The actions which the Indian took is very important in this respect, If the Indians was a wandering human being without location or anything that attached him to the soil or there were no considerable number of them banded as a government, then from whom could you buy a piece of land over which they were wandering if you wanted to buy the land? The King took no fee from a territory possessed that way. He got it by the dispossession of human beings with an organized government or of a disorganized habitation?

The title to the property of the State of New York, so far as that goes, is a serious question.

I have indicated that the determining of the case is of real vital interested to the Indians. In my judgement it must result in some deed being found in which the title of the Indian is still in perfect condition. We are going at it not for the white man, not with the idea of doing what is commonly called "white washing," we are sincere when we ask you to help us get the truth and if we didn't intend to get the truth in which you are interested and affected, we shouldn't ask

you for your assistance.

MR. KENNEDY:

As Secretary of the Nation, I have had occasion to look over the records and found nothing except the treaties. Before the United State came into existence Great Britain thought she owned this country, she assumed she owned this country. Isn't it a fact that the Six Nations disputed the title of the land with Great Britain, declaring war against Great Britain, doesn't your history say so? At the conclusion of the trouble of 1776, the United States government wanted to find out the status of the Indians to the government as you do today. The Six Nations wanted to know where they stood with the United States government and held a council and appointed a delegation of five men to represent them to confer with General Washington and asked him the same as you ask today. What did Washington say to the delegation? He said, "I conquered Great Britain for this country and insofar as you gave aid to Great Britain, you must go to Canada." They came back and reported this and part of the Six Nations under Capt. Brant immigrated to Canada and live now along the Grand River. Is that what you want to find out? The Seneca Nation held a council and said, "No we will not immigrate; but declare war against the colonies or states and drive them into the seas. We will send to George Washington and tell him that he fought for something that neither one owned as we own this country." So we are here today, we were never conquered. That is a fact, what more do you want? After that were made treaties, now what more do you want?

MR. HUFF:

I think that was the way it came about as Great Britain was defeated and a delegation sent to Washington and he was asked what he would do and the reply he made was:- "You fought with Great Britain and this country now belongs to me." Then the Indians organized to war against the United States and massacres were begun after a long time delegations went to Washington to urge the President to compromise with the Indians so they would quit the massacres. Washington said they should go to Cornplanter and Blacksnake and bring him to Washington and Washington sent horses to bring them back and so they went to Washington and talked it over and appointed a Committee to make treaties with the Six Nations. These treaties were made and after that Cornplanter was asked to go to Ohio and see if he could stop the wars out there. This is the way it is handed down, what I have always been told. Washington told that delegation that he had whipped England and that this country belonged to him. England lost all her rights and the United States took the rights of England and so what more can there be? Here is this land belongs to the Indians and the United States releases all claim and promised to protect them and it is in writing and we cannot dispute it but words can be disputed but treaty stipulations is certainly the Supreme law. What more do we want then that? What more would satisfy the Legislature of the State of New York than that? We are not under control of the State of New York but the United States. What they did was of their own good will; We never asked for it, and there is no way they can get it back. Let the churches which first built the schools, the missionaries refund it. We are not to blame for it. Let us alone and in peace and we will get along. I always had to

keep a good eye out in my dealings with the white man. It seems to me that New York State should be satisfied with the treaties and I claim we are wards of the United States and not of the State of New York.

MR. PATTISON:

I think this Commission is a good thing, and think it will end in something to better the Indian. I think the Chairman is in earnest when he says they will bring back what they took away from us. One important this is about the parts of the reservation that is occupied by white people and I suppose you (Mr. Everett) will look into that? We have a government of our own, a President, Assembly, etc., same as you and make our own laws and do the best we can and according to the State laws so that it won't conflict. These lawyers, they get all mixed up sometimes and they hold us back. I think the Supreme Court Judge made an error in this respect. I am sorry our agent has gone as I would like to say some things; but as you say you will come again, we might appoint a committee and gather up what more we can. This is a very important question, the State is doing a good deal for the Indians, spending money and means to do justice and while there have been bad men, the men here don't sometimes do what they ought either. We find fault with Dr. Hill, the Superintendent of Schools, he don't seem to take much interest, something ought to be done. There is a day coming, we must all admit, when the younger class will probably be citizens and we need education and if the State spends money, spend it to do good is my opinion. You take the young men and in twenty years they will be the men and we are going in a stream of civilization and cannot go back. It is for the future we are looking for a betterment of every reservation. I tell you in my judgment they are getting

well along in civilization, not a child but speaks English, they don't understand the Indian much more. Use the money to benefit the younger class. I hope this Commission will find what is for the interest of the Indians.

DR.R.W. HILL:

I have listened with a good deal of interest to everything that has been said and know the mind of the Chairman of this Commission and his enthusiasm. So far as it is possible for him to accomplish his intentions are that the work of this Commission will be directly beneficial to the Indians people of the State of New York. The State does not want your lands, not a single foot, not one penny of any funds you may have anywhere. Every acre of land it wants to be used by the Indian people and their children after them and every dollar the State of New York wants to see applied to the direct benefit of the Indian people without deduction of a single penny of it. But one thing we do want, and it will make this Commission happy , is we want your confidence, to believe that we come to you with clean hands and mind and that we speak the truth on the statements made by our Chairman and each of us as members of the Commission. If we can be assured you believe we are honest, and earnest and desire justice for you and your children and of the possible benefits that can be secured for them, it will make each of us happy and we can go away from the reservation feeling that in our time we have been able to accomplish some good to a people who need the assistance of justice in days to come. Now, granted that your status may be what it will, I don't see what your status is today, we are here to try to determine that and that we may tell the Legislature what we have found out about it. And granted it is what it may be your

status has been determined by Laws and Treaties and you are standing here in relation to the people who surround you and in relation to the State of New York and the United States. You have those relations to sustain they are more or less modified. What we would like to know is how your relations are affected by this status, how it is affecting your children, your wives and daughters and sons, how is it affecting the education you are giving to them and from which you would like to secure the best possible results. How does your status affect your religion, how it affects the whites living outside of your boundaries and your moral and social relations among each other. Do you intend to bear continual quarrels or build up mutual confidence? You can tell us this and you must tell us so that we can understand if the Status is affecting you injuriously and how to recommend a modification that will make it only beneficial to you. You talked about lands, how is your status affecting your land interests? You can tell us that. Putting the results of your remarks and information together, we can come to a clear understanding of actual conditions of the Indians of the State of New York and be prepared to make his existence what it ought to be in the sight of God and justice. We want your confidence and assistance. That you may feel when we come that there is no sinister motive in our hearts. If we can secure your cooperation and confidence by assuring you that what we can do to advocate the interests of the Indians of this reservation and of the whole State of New York, it will be done.

CHAIRMAN HOAG:

Mr. Chairman, after hearing what you said, I begin to see the object of this Commission. Our Nation, our Council proposed some legislation and had it introduced in the Legislature a few years ago

and it passed the Assembly, but when it came to the Judicial Committee of the Senate it was held up and Mr. Jenks of the Attorney-General's office made his speil, the same as at different times, that the State of New York had no right to pass laws in regard to Indians as it was unconstitutional all the laws they have made and so the Senate did not pass this legislation. The members of the committee suggested that we go to the Congress and have Congress confirm the laws of the State, the Indian laws of the State so far as it concerned the Seneca Nation of Indians. But, we failed to get any support from the Legislature, we called on members of the Committee and took the Bill before the Committee of Indian Affairs who refused to endorse it and said it was a step backwards in having such a law passed. We Senecas here want to be protected and want our rights that is why we had this Bill introduced but was held up, this was after the decision made in the Fish case that the Chairman spoke about. I think if this Committee's intentions are good, it would be a good thing for us to cooperate with them in having this contention between the State and the United States fixed. Some of the lawyers say that the State has a right to pass laws and others say they have no right to pass laws in regard to the Indian. As far as the State's spending money on the Indian I have nothing to say but if it is willing to spend this money, I say let them do it. If they don't want to, let them stop it. Now, these railroads passing thru the reservation are taxed and these taxes go to the State and are paid to the State and that money comes back and is spent on the reservation. All the money the State appropriates every year is not altogether out of their treasury, such as these taxes collected from this reservation. I don't know as I could say any more.

A.C. PARKER:

I should like to ask some of the officers of the Seneca Nation if the original Constitution of 1848 made application to the State for laws and regulations for the control of their people. In Section 14, 15 and 19 they especially requested the State of New York to pass laws for the benefit of the Nation. In the laws of 1900, page 252, whether that is an implied recognition of the authority of the State, I don't pretend to say, that is your question and for you to answer. Since 1948, the year when the amended Constitution was adopted the State passed laws affecting the Indians of this State. The Attorney-General's Department expressed an opinion that none of the Legislation passed by the State of New York since its membership in the United States is valid in as far as it affects the Indians. I ask your officers if you know if thru your original Constitution adopted, did you request the State to legislate for you?

CHAIRMAN HOAG:

We certainly do know and are acting under this Constitution since 1948, everybody supposed the State of New York had the right to pass these laws and it was never questioned until two or three years ago and after that we had this Bill in Congress to protect the Seneca Indians so these questions between the State and the United States should be settled that was our intention.

CHAIRMAN EVERETT:

I think that thru the efforts of some of the speakers you have been misled as to the obligations of this Commission. The laws referred to by Mr. Parker have nothing to do with the question we have to solve. The State has been warned they were not legally entitled to

pay this money and the question of whether they had a right to or not was no part of the decision. The State is not sending this Commission out to relieve itself of further payments for the benefit of the Indian. If you will cooperate with us and help us to find the facts to decide this case, we shall appreciate it and if you don't we will find just as many as we can without you and have no feeling in the matter whatever. Don't confound anybody's interpretation of the word STATUS as I explained we want what facts and traditions you can give us of your earliest transactions with the white man. You are not necessarily going to be changed by what your status is; but there is a serious condition over which law is the prevailing rule. If you have any records or recollections which your tribes can furnish to us that is what we want and it may be of most importance to your interests. You know you can't answer this now. I am very glad to listen to anything anybody has to say that has a tendency to solve the question we have before us. I believe that after you have received the copies of the Laws & Treaties which we possess and of the Minutes of the various meeting which we have been holding, that you will be willing to cooperate with us and furnish any information from recollection or treaties that you have been able to gather from the members of the Tribe.

MR. PATTISON:

Now, you take the old treaties, our ideas were that we had a right to hunt and fish anywhere in the United States this idea was handed down to the present day, until lately when we got in Court, and then they decided against us. I think the Chairman is going to look into this for us. If we want to hunt off the reservation, we have to pay \$10 or \$12 for a license while we always believe we had a right to

hunt and fish while the grass grows and the waters run. We told the Judge our treaty said we had a right to hunt and fish anywhere at any-time, that is as we understood the case, always, nobody could deny that we always reserved that right. In a few days the hunting season will be open and when you go back to Albany, we are willing to pay a dollar a license the same as a citizen, and when you go back you aid you would see to that. Some time I shoot a rabbit and the game warden will pinch me. George Decker claims he is willing to protect any Indian who goes off the reservation and try it out and I think he is right.

MR. KENNEDY:

We asked the State for the use of their jail to confine our prisoners and Judge Jenks said the State had no right to pass any jurisdiction over Indian affairs. Different States have passed laws and we would like to do that same thing to protect ourselves. We issue hunting licenses but the State officers do not recognize them. Do you think that is right? Then they make us pay the same license as an alien.

CHAIRMAN EVERETT:

I will say this,- I believe the disposition of the Conservation commission concerning the Indian is wrong. I feel that the fact of an Indian being charged for a license the same as an alien is an outrage and will do all I can to correct it. I am Chairman of the Conservation Committee of the Assembly and stand for matters before my Committee if they are just, right and proper; but of course my voice is not alone as there are thirteen other members to that Committee who have to be considered. However, I believe or suppose

that the Conservation Commission will say they are justified because the United States Court said the Indian is an alien. However, I believe that a man born in a country in which his grandfather and great grandfathers lived is not an alien and any judge making a decision with such facts is ignorant. I will not say I can change this law, but if I am returned to the Legislature I shall attempt to change it and I believe I can do it, now does that answer you?

MR. KENNEDY:

I want to ask another question. Can you by process of Court change the complexion of any deed given by one party to another party of the deed? If I gave you a deed to a piece of land, have I right to change part of the conditions of that deed by process of law and Court procedure?

CHAIRMAN EVERETT:

You have asked for a principle of law. A deed is a contract, a written instrument made between two or more parties. The law is applying itself to that written instrument demands for the first that you make a consideration; second, that the contract must establish the fact that the minds of the contracting parties agree there can't be anything put down in which one mind may act and not the other. In the matter of your deed you agree to the sale of the property and consumated it in the contract known as the deed. The privileges and conditions of a contract are always subject to a dispute; but one cannot change that contract without going thru the same process of mind with the same parties meeting the same way with their minds made and the agreement is perfected. The Court can do what they call construe it, that is give what their idea is of what the contract

means and when they do, why like any other Court decision we have to obey it as the Law until someother court will change it.

MR. KENNEDY:

Can a third party change the conditions of that contract?

CHAIRMAN EVERETT:

No sir.

Q: Well, the Seneca nation deeded land to Robert Morris, reserving the right to hunt and fish on the land intended to be conveyed. That was sanctioned by the United States government as a treaty. Here the State of New York turns around and against the conditions of that deed interferes with that right which we reserved, is that right?

A: No Sir.

Q: I said to Commissioner Pratt, "That is another case of bunco." In changing the complexion of that contract, they spoiled the whole contract didn't they? If part is null and void then all is null and void.

A: If you and I make a contract, this gentleman here can't change it or do anything to make it void between us.

Q: Then the State of New York can't any more than he can?

A: Your Nation made a sale of property to Robert Morris and reserved the right? Well, the State of New York nor anybody else can _____ that. They cannot change it and let me tell you further that that is a very significant transaction in this inquiry. Now, the United States government ratified the sale to Robert Morris, they ratified the right of an Indian and endorsed the transaction to the effect that he was the owner of the fee in the property. Do you get the signifi-

cance of that?

MR. KENNEDY:

Yes, sir

CHAIRMAN EVERETT:

They say that anybody would die if he had to sustain the agony of pulling a tooth for three minutes. I suppose enjoyment is the same feeling and you ought to feel might well to have developed in one afternoon the fact that the Indians of this country were treated by the United States government as owners in fee to this property. For the transfer of this property to Robert Morris giving the title and fee to a section, if unsuccessfully disputed established your ownership to the Continent. Now, you sit down and take plenty of time to think these matters over. Because it is a cinch that Morris had undisputed rights to that property and if he didn't get a good title, the government of people who did own this country can dispute every mite of property.

MR. KENNEDY:

I claim that the State of New York thru the Supreme Court of the United States has made this deed to Robert Morris null and void and therefore we own the territory yet. You said that a contract unless changed by agreement of the original parties is void if a third party comes in and changes it?

MR. EVERETT:

I do say that.

MR. KENNEDY:

Well, in this hunting case, the State arrested our people on this territory ceded to Robert Morris.

MR. EVERETT:

This act of an official can hardly be of importance to consider it as a law. The case as I understand it was quashed when the question of the reservation was successfully raised, is that true?

A: They ignored the original deed of the Seneca Nation given to Robert Morris.

Q: What was the determination of the cases when the original deed was submitted to the Court?

MR. KENNEDY:

I claim this, Mr. Everett, that every individual law suit should be decided by the merits of the evidence produced during the procedure and not by other cases, other cases ought not apply to what is before the Court, it is wrong when you decide according to some other case.

CHAIRMAN EVERETT:

I state that my legal opinion is that the reservation contained in the deeds of or to Mr. Morris were good and are good now. I would be willing to take such a case at anytime on that basis but could not say that I would get it from the first Court I went to; but it is of utmost importance to you and the Indians of the State that the United States and the State have never attempted to interfere with the question of the deed that the Indian transferred to Mr. Morris, nobody has reported the case against Mr. Morris as not owning a good title because he got it from the Indians originally. They have strengthened the right to sell and the legality of the sale by their failure to question the legality of the sale in this State and the title if good gave an absolute right of the Indians to make any reservations they saw fit.

MR. HOAG:

Would it be too much to ask you to put it in writing what you want the Indians to do to assist you in solving this question?

CHAIRMAN EVERETT:

You will be served with a copy of my remarks which will cover the subject to your entire satisfaction.

MR. HUFF:

One question, what the STATUS of the Indian is, whether they are people here to be recognized as human beings, capable of entering into contracts or anything of that kind, am I right?

A: Yes sir.

MR. HUFF:

Altho if the Legislature should think if the Commission reports that the status of the Indian is nothing more nor less than a specie of apes, like animals, then what report? Whether he is an alien or specie of orang-outang or a specie of human being that is what you want to find out. I think after you have been here today and see the Indians and these lovely women if you can't convince them by your report that we are human beings there is no use for us to stay here another minute. That is as far as I can understand your mission here. Any Court Judge who will say an Indian is an alien is not fit to be on the Bench. I would tell him so and not hesitate a minute and tell the people of the United States they are _____ fools for putting him in the chair.

CHAIRMAN EVERETT:

Abraham Lincoln would never had said that.

MR. HUFF:

Nor McKinley nor any man with a human heart would not say that. If anyone is, the white man is an alien and the Indian an citizen of the United States, for he was the first inhabitant here.

CHAIRMAN EVERETT:

If every one has finished speaking, we will now close this meeting and send you copies of the Minutes and when you are able to furnish us with any information, let us hear from you and as many of the Commission will come again to Council with you as is possible. The meeting was then adjourned.

E X H A B I T B

MINUTES OF THE MEETING

-at-

BRANTFORD, ONTARIO, CANADA.

Home of Chief William Smith, Sr.

Hagersville R.R. #6, Ontario, C.

THE SIX NATIONS DOMAIN

ONTARIO, CANADA

BRANTFORD, ONTARIO, CANADA
August 22, 1922 (or 1920)

The New York State Indian Commission has just finished a visit to Brantford and driven over the Indian Reserve. The New York State Commission has been authorized by the State Legislature of New York to inquire into status of the American Indians residing in the State of New York.

The application of the word status to this inquiry is one of very grave importance as it requires determining the question of the status that the Commission be possession of the facts relating back to the first treaty and contract made with the North American Indian with the first white man.

The Commission visited this locality for the purpose of inspecting and inquiring into the management and history of the Six Nations residing there as they formerly came from the State of New York and their early history is necessary to the Commission in determining the question of status.

The Commission found very interesting history connected with the Indians of the Six Nations as their present governmental management indicates that they were an organized form of government when the white man first came to this continent. In fact, there is some evidence to the effect that the representative form of government established by the United States was copied, to a certain extent, from the organized government maintained by the Indians along the Atlantic coast.

The Commission feel themselves well paid for their trip and wish to extend to the people of Brantford and the Indians their appreciation

of the courteous and hospitable treatment accorded them while there. It is expected that after the evidence gathered from visits similar to this, of all the reservation, in the State of New York that the Commission will again return to Brantford for further consultation in pursuit of their inquiry.

Members Present

Hon. E.A. Everett, Chairman of N.Y. State Indian Commission.

Hon. DeHart Ames, Assemblyman, New York State Legislature

Dr. R.W. Hill, Charities Department

David R. Hill, Representing the Indians of the State

A.C. Parker, Educational Dept., Secretary of the Commission.

Mrs. L.G. Stillman, Official stenographer to the Commission.

Full List of Members is on page 3 of the Report

BRANTFORD, ONTARIO, CANADA

Home of Chief William Smith, Sr.

Hagersville R.R. #6, Ontario, C.

Sunday, August 29, 1920

THE SIX NATIONS DOMAIN,

ONTARIO, CANADA

CHIEF WILLIAM SMITH:

The Five Nations were an organized government before the discovery of American by Columbus. Each nation represents so many Chiefs in Counsel all together.

CHAIRMAN EVERETT:

Chief Smith, you established the fact of the Five Nations being a government by Traditions?

CHIEF SMITH:

Yes, sir. I will show you the documents and it ran on for two or three hundred years all well until Great Britain formed treaties we never seen but it was a hearsay that the Five Nations made a treaty to help each other in case of war then of the Revolutionary War, they say, the old people say that George Washington tell the Five Nations to be neutral not to take part of the trouble and fighting. At that time Lord Dorchester or Sir Guy Carleton was Governor in America representing Great Britain and coaxed some of the Five Nations to help Great Britain to come in war. So I suppose the Five Nations didn't know just what to do to obey George Washington to be neutral or take part with Great Britain. So Lord Dorchester and Sir Guy Carleton

promised the Mohawks in case they lose anything by helping Great Britian it shall be restored by the government. This was verbal an some of the Five Nations took his word and took up arms for Great Britain. Before the war was ended Sir Guy Carleton went away and Sir Fred. Haldimand came in his place and Capt. Brant, the head man of the Five nations at that time told Sir Frederick the promise made by his predecessor. Sir Frederick said whatever was made should be fulfilled, executed as soon as peace should come and wrote it down in black and white. Here is a copy of the document known as "A Pledge or Treaty of 1779"

Thru the courtesy of Chief William Smith, we made the following copy---

By his Excellency Sir Frederick Haldimand, Esq.
Captain General and Commander-in-Cheif of the
Provinces of Quebeck, General and Commander-in
Chief of His Majesty's Forces in Province and
upon the Fronteir's thereof, ec ec ec.

Some of the Mohawks of the Villages of Canajoharie,
Viyondarago and Aughwago, whose settlements there,
had been, upon account of their steady attachment
to the King's service and the interests of Government,
ruined by the Rebels, having informed me, that my
predecessor Sir Guy Carleton was pleased to promise,
as soon as the present troubles were at and end, the
same should be restored, at the expense of Government,
to the state they were in before these broke out, and
said promise appearing to mejust, I do hereby ratify the
same, and assure them, the said promise, as far as in me
lies, shall be faithfully executed, as soon as that happy
time comes.

Given under my hand and Seal at Quebec 7th April 1779
Fred. Haldiman
(L)

I Certify that this is an exact photographic copy of Add.
M.S. 21767, F 9 -
D.T.B. Wood
Dept. of MSS British Museum

CHAIRMAN EVERETT:

At the time the above article was signed by Fred. Haldiman, Governor General and Commander-in Chief of the British Forces, all matters pertaining to governmental affairs were in the hands of the Military Department of the English Government, on the margin of the photographic copy of the original instrument, we find the name of Col. Guy Johnson, March 2, 1779.

CHIEF SMITH:

Whatever promises he made to us were just as legal as made by the King himself.

"Certificate"

(Copy) entered fol 46

Certificate given to the Mohawk Indians 7th April, 1779.

I certify that this is an exact photographic copy of Add. MS 21767, F. 10 b

D.T.B. (or D.F.B.) Wood

Dpt. of MSS. British Museum.

The original conveyance of the land now occupied by the Six Nations in Canada, was submitted to the New York State Committee who read it thru but did not have copy made. It was signed 25th day of October 1784 by Fred. Haldimand. A copy is now in possession of the Secretary, A.C. Parker, of the Commission. See printed copy attached.

1920 ----- THE CANADIAN SIX NATIONS is now having a law suit with the British Government regarding their status.

CHIEF SMITH:

Our present trouble is because the Canadian government passed a bill attempting to ENFRANCHISE the Indian, compulsory. We

have no objection if a man wants it; but we don't want it compulsory
CHAIRMAN EVERETT:

What business has the Canadian government to pass any law in control of the Indians if they were a separate nation and government and their rights are such as a separate nation and government has the absolute right to enjoy as a right and privilege.
Canadian Secty of Six Nations.

SECTY. A.R. HILL:

The Canadian government is trying to overstep their authority. They don't want to make a distinction between the Six Nations and other aborigines of Canada. We came here from the State and we want them to make a distinction that will be satisfactory however small as we do not want to become amendable to the Canadian government.

CHAIRMAN EVERETT:

Did the Indians here at the time the Five Nations came here maintain a form of government of any kind?

SECTY. HILL:

I don't know, the Hurons were here and the Five Nations conquered them. This land was 800 miles long and 400 miles wide and known as the Beaver Hunting ground of the Five Nations. This Beaver Hunting ground was entrusted by the Five Nations to the King for protection; but it was sixty years later that the Mississagues and deeded to the Six Nations. There was some crookedness on the part of the British Government knowing that it originally belonged to the Five Nations and the Indian Department claimed that this deed of Sales or Surrender but in this deed of 1701 there was no consideration therefore, we cannot call it a Deed of Surrender.

CHIEF SMITH:

We have two bodies in politics in Canada, one the Liberal and the other the conservative. This was at the time the Liberal Government was on. The Conservative party are in now and passed this bill regarding this compulsory act; but we have stopped it until the Supreme Court decides our status.

Reference Books---Canada Indian Treaties and Surrenders from 1680 to 1890 in 2 Vol. for copy write to Duncan Cambell Scott, K.C.B. Commissioner Indian Affairs, Ottawa Canada.

ASSEMBLY PARLOR, CAPITOL

ALBANY, N.Y.

10 o'clock, A.M.

February 24, 1928

CHAIRMAN EVERETT:

We will call the Indian Conference or meeting to order. In order that all of the delegates who are here may be familiar with the object of this meeting and what we expect to accomplish and in order that you may all have the information that was sent out, I will read the conclusion of the Chairman of the Commission and the letter accompanying the invitation to this Conference, so that if per chance some of you who are here representing your tribes did not receive that letter, you will all then have the same information and be working from the same point.

TO THE SIX NATIONS OF INDIANS RESIDING IN

THE STATE OF NEW YORK:

Agreeable to arrangements made when this Commission was visiting your reservations, namely:- that you should be appraised of the determinations which this Commission had arrived at relative to the findings of your status and in order that you may know in advance of the meeting on the 24th what the conclusion will be, I make the following statement:-

As Chairman of the Indian Commission of the State of New York, I shall find that the Indians of the State of New York are entitled to all of the territory ceded to them by the treaty made with Colonial Government prior to the Revolutionary War, relative to the territory that should be ceded to the Indian for their loyalty to said colonies and by the treaty of 1784 by which said promise by the

colonists was consummated by the new Republic known as the United States of America and in a speech by General Washington to the conference of Indian comprising the Six Nations and recognizing the Indians as a Nation.

Such territory as had been promised was actually set apart, ceded and deeded in fee simple to the Indians that then comprised what is known as the Six Nations.

You will please take notice that any evidence sustaining this position will be of interest to this Commission and any information adverse to this will be given proper consideration.

Very truly,

E.A. EVERETT

EAE LS

P.A. I am taking up with the Finance Committee of the Senate and Assembly the matter of providing a fund to pay the expenses of the delegates sent by the various tribes to attend this conference as their legal representatives and expect that I shall be successful in this effort.

TO THE SIX NATION OF INDIANS RESIDING IN
THE STATE OF NEW YORK.

Jan. 24, 1922

Ladies and Gentlemen:

When visiting the various reservations in 1920, I advised the Indian tribes that I would hold a meeting before submitting a report to the legislature of the State of New York. This report must be submitted before the Legislature adjourns in 1922.

I agreed that the Indians should send representatives who would be given an opportunity to read my report before it was submitted to the Legislature and if they desired would be given an opportunity to make additional statements.

I suggest Friday, Feb. 24, 1922, as a convenient date for a conference to be held in Albany, Room 310, Assembly Chamber, Capitol. Will you kindly advise if this date will be agreeable for the various tribes to send a representative to Albany?

I notice that the United State Supreme Court has affirmed the decision in the United states us. Boylan-Moyer case, which according to my opinion of the matter turns all the land that belonged to the Indians at the close of the Revolutionary War back to the several tribes as their reservations existed at that time, unless some of the land of the reservations has been properly disposed of with the consent of the Federal Government.

I am going to suggest that you take no action in this matter until after the meeting is held at Albany, at which time your status will be considered and some general plan can be formulated. I suggest this in order that you may save for yourselves the benefits that this decision may be to you.

Very truly,

E.A. EVERETT
Chairman of the New York
State Indian Commission.

EAE LS

P.S. The State has refused to appropriate a sufficient amount of money to enable me to offer to reimburse the representatives which you may send to Albany.

I want to say to you that up to date, I have not been successful in persuading the Legislature and especially the Senate that it is the duty of the State of New York to pay the expenses of the representatives of the Indian tribes of the State to this conference. Sometime, at the proper time, I shall furnish to the Indians the information that has led me to believe that the private interests back of people representing the State in Senate and Assembly are desirous to smother the facts concerning the transfer of the title of land in their vicinity and that they seem to think the cheapest way to do it is to strangle this Commission and you, so that you can't make any protest against the treatment you have received.

Now, this meeting is called for the purpose of getting the ideas of the Indians representing the several tribes, getting your

ideas as to what you think about the conclusions of the Chairman, as outlined to you. When I assert my conclusions as Chairman, I do it because I don't want any member of the Indian Commission to feel that he is embarrassed by the position I have taken. If the facts I shall present in the detail of the report do not sustain my conclusions, I do not ask anybody to concur in that failure but myself.

You men who are here as representatives are at liberty to discuss the different points as they come up. There are two or three vital questions that have to be settled in arriving at the status of the Indians residing in the State of New York.

I have felt, as a matter of conclusion, from the facts that I have been able to gather, that the Indians of North America were civilized, human beings, maintaining a form of government when Columbus landed on these shores. In tracing your actions, as a Nation and nationality, I find that you were as intelligent, as humane, as progressive, so far as progress leads to the sustaining of life and the enjoyment of your privileges, as any other civilized people. When Columbus landed here, you treated him kindly, you showed him your country, you gave him an idea of the wealth you possessed and he went back and astounded the Eastern world with what he found. Then you were visited by every nation having a boat to float to these shores. you were asked to assist a colony of French, English, Scotch, Dutch and all other Nations who were ambitious to install themselves in this new world. The Nations that came over here to establish colonies and to become possessors of some part of this wonderful country, had during all the time that history appraises us of, fought among themselves. So, we cannot say that because you fought among yourselves, you were uncivilized and without a government.

Seven hundred and fifty years ago England subdued Ireland, so far as taking possession of them is concerned and while we consider the English Nation is one of progress and intelligence and as one pointed to by the people of the world as a unit, which perhaps may stand as high as any other in civilization and progress, they held their ironclad heel on Ireland for seven hundred and fifth years.

Is that an exhibition of kindness, of an attempt to better humanity?

May I ask the people who may oppose my position, concerning your progress and ability, to tell me what tribe of Indians in any section of the United States ever held its heel on any people for seven hundred and fifty years?

You fought among yourselves, that is true. You fought for the supremacy of the right to rule and had centralized it in the Six or Seven Nations and when Columbus landed here he found the government controlled the intelligent and principal part of the inhabitants that he met here.

To be sure you had renegade Indians in bands who were eternally trying to get their living out of somebody else, but we find the same class of people today (white on the outside, but dark colored out of sight), you can find them in Wall Street and in the public transaction in a time of peace and in time of war.

I am calling your attention to the fact that it is our duty as a Commission to compare the facts as to the question of your ability to be a civilized people in solving this question before us.

The International Law of the world recognizes that in taking a country away from a people in possession of it, you must adopt one

of two policies, namely:- either purchase or conquest. I maintain, as a matter of law, that if the several countries coming to the United States then people by Indians recognized the rights of the Indians to the possession of the country, then as a matter of law, they foreclosed themselves from ever saying that the people who inhabited this country were not entitled to be treated as individuals comprising a Nation.

Were you in possession of the soil of this continent? That is one of the questions that will be considered later on.

I came to the conclusion that you were civilized beings maintaining a government and had a right to the control of the country you occupied for governmental possession and other possession that you possessed the FEE title to the land.

I maintain that any attempt by any European country to take that title away from you by a resolution passed in some meeting of Dignitaries on the other side of the ocean, is of no effect.

I maintain that, as a matter of law, the Ogden Land Company's claim is a claim without right.

I maintain that when the British Government came over and treated for land in the possession and owned by Indians, they had no business to go back home and pass laws to the effect that Massachusetts could extend its territory the width of the United States from ocean to ocean thru New York State and that they might sell their right to the government of that strip now known as the Ogden Land Company's right.

When we have disposed of the question of the ability of the Indians to hold the title of the land, we come to the question of

WHEN, WHERE and HOW did you come dispossessed of this right.

It is a long, tedious search to start in 1620 and follow the actions of the Indians and white men on this continent up to 1922. I was successful in securing a brief made in Canada, where this same question is being discussed and a contention concerning it, which I shall make a part of my report.

I hope the State will find money to print the report, they are pretty hard up at the present time. It cost then thousand (\$10,000) dollars to do the clerical work on the Brief which I obtained in Canada, to say nothing about the lawyer's fees. It cost that as it started in 1620 and traced the Indian history down to about 1920, in detail, having searched the records of all transactions between the Indians and white men between those dates.

In concluding this question it is necessary to go back to your early transactions with the white men, the state or the business organization, and in order to find out if the transaction was good, you must search the records to find when, where and how it was consumated.

Briefly, I find that prior to the Revolutionary War, the Indians who were located here, when some colony was established by some European Nation, were either friendly or unfriendly, depending on how you had been able to live as neighbors. So that when the Dutch were driven out, they had Indian friends and when the Dutch drove out the English they also had Indian friends. I have kept quite clear in my mind the fact that it was not an Indian quarrel; but one in which he joined to assist his new friend. I want you to trace carefully the

gratitude which the white man had.

He asked you to drive out the English, and when you succeeded in helping him drive the English off, leaving the colonists by themselves, and they found no internal contention to be looked after, this white man whom you helped to establish and maintain, started to pay his respects to you. So, just prior to the Revolutionary War, you had been divested of about one half of the area of this state in the contention with the English, Dutch and French in fighting over the possession of this land. So, in assisting one or the other party, you lost about half of the area of the State. Of course, it interested you as it would anybody in any neighborhood fight. You said; - "We'll lick him.", but then you woke up and found that while you had licked him you'd been half licked yourself.

So, when the colonists were compelled to combine, against the English, they found they must be an independent country or submit to England and so the man who was known as the Father of his country, and the man who was the Father of this country, and the creator of this country, called the Indians together and said; - "If you remain loyal to these thirteen colonies and me, I will then had you the territory you now possess." He was from Virginia and he couldn't enter into the question of the matter of disposal of land in New York, or other states; but he took for granted that those lines that had been established were satisfactory to you. You divided the territory and he said; - "I will maintain you forever if you will stand by us and be our allies." Then, the British came with a promise and in a treaty now in existence (I have had the privilege of reading it) said that if you remained loyal to the Mother Country, they would give you

all the territory you then possessed in the United States and if by chance the colonists should lick them, they promised to give you and equal amount of territory across the St. Lawrence, so they made you a double promise, for if you lost on one side you would still have a home on the other side of the river. So, you might think there would not be many Indians helping the colonists. Yet, it is a glaring fact, that about half of the Indians, if not more, remained loyal to the Colonists, notwithstanding the British promise and the fact that by remaining loyal to the Colonists they might be driven into the ocean.

Washington made that promise to you prior to the war and made you his allies. You didn't work for pay as the Germans, you worked to sustain, maintain and forever possess the country in which you were born and which was yours by right of possession and recognized to be yours by the governments of the world. When the Seven Year War was over, what did Washington do? He called you together in 1784 and ceded to you all the territory he promised as the head of the Thirteen Colonies.

My contention, as Chairman of this Commission, is that when the transaction was closed with the Indians of New York State and the United States, that was practically a compact and agreement made by one Nation with another Nation, one recognizing the absolute governmental right of the other.

Washington's country was just lately born and the question was how long it could exist, while yours was a government maintained beyond the memory of man and instead of retrograding you had progressed. You held treaties with the Indians who comprised the inhabitants of this continent and established a Peace Conference by

bringing in the tribes of Indians that might be considered by you as the wilder members of the inhabitants. You brought them in to that Peace Conference and after several days of discussion, in which reason, logic and the magic of oratory and eloquence was used, you united the Indians of this continent in a Peace Conference. I am somewhat inclined to think that we will have to lick everybody before the white man establishes a Peace Conference, for when we get together to maintain a Peace Conference we fight over which shall control the weapons of war. The main contention is;- who shall run the boats that carry guns on the ocean? I am somewhat inclined to the attitude the Indians take that if you have nothing but your fists and clubs, you won't do a terrible amount of damage. I have suggested to some of my white brother;- "Why don't you take your guns and ammunition and beat them into useful articles and then you can't fight. If you are sincere in this Peace Conference, that is what you will do." But, they say;- "You must have somebody to enforce the decisions of the treaties."

I am stating this in order that we may draw a picture of the Indians and the white men settling differences, to show whether you were a people of education and ability sufficient to maintain a government.

Now, when we finish and come up to the line of where you completed your contract or treaty with Washington, after the war, we then find that the facts established this contention;- That you have been almost entirely divested of the territory ceded to you at that time.

I maintain, that the Indians of the State of New York have failed to dispose of the title to any of the lands ceded to them by

the Treaty of 1784 and am gratified that the Supreme Court of the United States has confirmed my contention to this effect.

While the amount involved in the foreclosure of the thirty-two acres of land on the Oneida reservation (The Boylan-Moyer Case), as far as the amount is concerned, is somewhat small for so large a contention as the entire reservations in the State to be settled by, nevertheless if the Indian failed to pass title as a pledge for the payment of money in the Boylan-Moyer Case, the fact of its insignificance as to the amount and value, has nothing to do with the broad question of the passing of the title. The United States Supreme Court affirmed the decision of Justice Ray of the District Court of Northern New York, whose decision was affirmed by the United States Circuit Court of Appeals. The judgement of Judge Ray and the United States Circuit Court was affirmed without opinion by the United States Supreme Court. The Court held that the Indian had never disposed of the thirty-two acres of land by pledge because the legal contract of a mortgage as to the title it conveys is the same as the legal contract on a deed of conveyance so if that Indian sold that land instead of mortgaging it, the title would have the same defect in conveying the possession of the land as it had in pledging for the payment of the indebtedness. Now, we have a right to inquire why that title failed.

I am not prepared to say that I will pledge my legal ability to the accuracy of my position, just yet, as I want to look it up a little more carefully. But, I will say this;- that the Treaty of 1784 was made when we had established a Constitution in the United States.

The Thirteen Colonies had united and written a Constitution and adopted it and it provided against a foreign country's becoming domiciled within the boundaries of the United States, and so in order to protect the United States against any other Nation's becoming possessed of this territory, a compromise was made with the Indian in establishing his domicile in the United States by providing against the right of the Indian to dispose of that property to anybody except with the consent of the Federal Government. No treaty was ever made with any country with such an arrangement and it was done with you because they recognized that you were here and entitled to stay here and as a mutual understanding and agreement between both parties.

Let me call your attention to the foolishness of the claim of the Ogden Land Company, a private corporation seeking to say to the United States government, after the Revolutionary War, that they held the governmental right over about six million acres of land in New York. The Ogden Land title was secured for the purpose of giving them the right to impose taxes. They didn't dispute the right of the occupancy of the Indians. They secured their charger from the British Government, thru Massachusetts. I believe that this matter was arranged as a compromise with some members of the Royal family in an attempt to establish the right to collect taxes, tolls and any other rental rights that they might impose, in case this new government was not able to maintain itself.

I day it is nonessential to discuss the right of that company to interfere with the treaties between the Indians and the United States, but they held that up to you and threatened you with it and

succeeded in taking territory away from you with that scare of the Ogden Land Company's right. I am not prepared to tell you what it was and why it has remained in existence all the time; but I have practised law long enough to know the "foot prints" and what it means. It was taken up to make you citizens and take out of your own money an amount sufficient to discharge the claim of the Ogden Land Company. All these entanglements have been applied to you by the State of New York, by corporations and individuals, until you find yourselves divested of the rights, you possessed at the close of the Revolutionary War. You are somewhat to blame for being fooled into these treaties; but in my judgement you were given this territory as a Nation and no one, two or three persons had a right to dispose of the title. I am a citizen of the State of New York, entitled to certain privileges and may consider myself as a part owner in this capitol, a part divided into possibly a ten millioneth part, and should I make a treaty to take any fellow's share, it would be just as ridiculous as when they sought to take the Fee Simple right of the Indians by one or two Indians conveyance to them.

I have arrived at my conclusion for some of the reasons just repeated to you.

Now, having established the fact that you were a Nation and owned this country and were "allies" of this organization establishing the United States of America, that you treated and put down the lines where you would own and that should be owned by you, at the conclusion of our contention, having done that, I maintain that you are the owners of all the territory that was ceded to you at the close of the Revolutionary War and unless you disposed of that property by an instrument as legal and binding and necessary as the conditions of that treaty was to place the property in your possession, you are still the owners of it.

The funds of my Commission and the language of the Bill continuing the Commission make it impossible for me to establish the territory that was set apart to the Indians of this State under the Treaty of 1784. The matter of determining the boundry lines is something that must be taken up at a later date, either by the State of New York or the United States or both in connection with the Indians of this State who are interested in the problem.

I have attempted in an honest, fair, candid, open way to solve this question. I have neither turned to the right nor to the left for any personal influences nor on account of any influences that would be of benefit to the State of New York or the United States or to the Indian.

I have arrived at a conclusion which I believe is one in which substantial justice would be done the Indian if the scheme and plan is carried out and am sincere in my belief that it is the cheapest thing for the white man to do; that is do justice to the Indian in settling this problem. I believe that you receive punishment unto the third and fourth generations for your misconduct and that is true of Nations as well as individuals and I sincerely hope that you will act with wisdom and courage and care in the prosecution of your claim.

I tender you, at any time, my counsel and advice and assistance but I say don't let a white man rob you when taking over the things you have been divested of. There are men, capable men, but they should possess one qualification and that is honesty, be sure they possess that before you secure them.

I have used the statement and will again that I can hardly believe that the conduct of the morals and intellect of the people of the State of New York is such that they will not lend a willing ear to the solving of this question when it comes to them in the right way. I can hardly believe that the human sentiment existing in the American people which was sufficient to take four million of the flower of the

country and offer them as a sacrifice to stop outrages against humanity perpetrated in the old world and twenty billion of dollars of wealth laid on the alter, that such a Nation, State or Community would lend themselves to such a task and then fail to remember to settle with the people who could have blotted them out of existence when they first started.

We offered our men and it was a spontaneous gift of a brave, intellingent, enlightened people. We may almost say, the most so, of any community, nation, or nationality of which we know. We almost believe we are that. Can it be possible that after taking the confiding, honest Indian people, simple in their acts, just in their conclusions, humane in their treatment, can it be that we will turn a deaf ear and cold shoulder to the remnant of this people who are gathered in this room, who were once the proud possessors of this entire state? By your confidence, your fidelity to your promises you made us, you have been impoverished, depleted, yes huddled on a reservation.

I am not going into a discussion of the details but, when I think that we have taken you as our wards and we as your guardians have spent the small sum of Twenty-six thousand dollars for institutions of learning that carried you beyond the fourth grade, I feel ashamed of the Educational Department of the State. Yet, somebody will stand up in a public meeting and wonder why you don't progress. If you want off the reservation for education, you were considered an outlaw, as we provided a place inside the fence and said, "Why don't you stay there?"

Don't chafe too much as you have all the aggrevation you need to put up a good fight, do this battle with intelligence. Don't let your rights be diverted by some agency or attorney you may trust to represent, you, he is a necessary factor in this, but you can spell his necessity for becoming a factor by his own personal benefit.

I shall complete the details of this report before the 17th of March and if I can persuade the State to print it, I shall see that the Indians on each reservation are supplied with copies to give them an opportunity to study the details that have prompted the remarks, the sustaining factors that warrant my coming to this conclusion.

There are two members of the Commission here; - Oh, I see Dr. Hill is gone. Maybe Mr. Parker desires to say something. I shall be glad to hear from him and any members or individuals who would like to make any recommendations. We would be glad to hear or answer any questions from you.

CHAIRMAN EVERETT:

Dr. Hill, I didn't notice that you had gone out; but now that you have returned would give you an opportunity to speak. You know my Commission is about as much impoverished as the Indians. We started out with thirteen members and only two are present.

DR. R.W. HILL: (State Charities Department)

I am sorry that I am not in physical condition today to attempt a prolonged discussion of the matter which is now being presented for your consideration. I have heard for the first time the "conclusions" of the Chairman of the Commission. I do not know nor have I seen the testimony upon which he bases his so-called "conclusions" nor do I know the means whereby he has arrived at such conclusions other than since the Commission was organized as I have listened to his addresses made to you at different times, it has seemed to me that the condition of his mind led very evidently to his concentration upon only a single phase of Indian life, and upon experiences which are outside of the special work for which the Commission was created.

We are now at the time when a report is to be presented to the Legislature yet the Commission or "the remnant of the Commission," as the Chairman has just suggested, has not formally been called

together to give consideration to the preparation of a report. What you have heard is not the Commission's "report" therefore, but is as stated by the Chairman part of the proposed report of the Chairman of the Commission. If the Commission agrees with the "conclusions" of the Chairman and agrees with a statement of facts to be presented by him, we shall have a "report of the Commission."

Until some such conference has taken place, and sufficient attention has been given to the matters and evidence which have influenced the Chairman, the "conclusions" presented to you are those of an individual member of the Commission, a member, however, who is by virtue of the nomination and action of the Commission its Chairman. For the purpose of the report, his vote is but one, and only of equal value with the vote of any other member of the Commission. I remember the provisions of the law that called the Commission into being and that certain things are in it, definitely defining the duties of the Commission which was to report upon the "relation and status" of the Indians residing upon the reservations in the State of New York.

The term "status" or standing is one which has various interpretations and it, therefore, requires the consideration of many interest. We do not always and cannot always, as individuals, look alike upon the various phases of our living and there is likely to be a difference of opinion as to the final conclusions we may arrive at in the matter of "status" but that seems to be the one purpose for which the Commission was organized, to give to the Legislature the actual "relations and status of the Indians" of the State of New York at the present time. We are to decide, agree upon, if possible and report just how they are related to other people today and what is their standing in this State.

Having made such a statement we should suggest what must be done to better the conditions which exist upon the reservations and which in our judgment are not as they should be. I do not want you to

be carried away by the Chairman's "conclusions" and suggestions as to the things of long ago which are of interest only to students of history. Personally I cannot adopt them as the basis for the Commission's final report as his suggestions are clearly outside of what in my judgment is the original purpose for which the Commission was established.

I am sorry to disagree with the Chairman of the Commission. I have great respect for him as an official and would like to be in accord with him but cannot concur in his construction of the findings of the Commission as they have been presented to you today. His "conclusions" are not germane to the duties of the Commission and therefore should not be presented as the final report of the Commission.

He says "justice" and the "honor of the State" demands agreement with his conclusions. We all believe in justice and honor; we have the highest regard for the honor of the State, but we include in our code honesty to the present. His "conclusions" reflect upon the people of the past who made the State and Nation. We must do all that is in our power to establish a proper "status" of the Indian people. There are things to be corrected; but I do not believe that correction should be based on conditions which may have existed before Columbus visited this country, or the Vikings before him had found the Greenland coast. We will not benefit the Indians of the State by holding out the suggestion that they are to recover about six million acres of land and although they will have to press their claim that in the end they will become wealthy. Perhaps You Indians who are here will not continue to toil or spin for you may be deluded by the Chairman's "conclusions." You may believe that Indians will not have to work for a living, but that is a mistake. To present to the Indian people such a mischievous delusion and thus encourage them, after the great developments made by the white race, to believe that they will again be put in possession of the land once occupied by your ancestors must lead to unrest and trouble.

If I have any part in influencing the report of the Commission it will not contain any suggestion to the Indian people that they are entitled to six million acres of land, more or less, or that they will receive from the State of New York compensation in lieu thereof. I do ; not like to differ so radically from the Chairman, if he has honestly arrived at his "conclusions," but I think that he has been following a delusion which has led him into a swamp. He is bewildered by misunderstanding facts and his logic has led to a conclusion which however pleasing to his mind can do only harm to the Indian people of the State if they adopt his views as their own.

There is one thing we must accept; that is, matters of title and possession once settled definitely and so accepted through generations must remain settled. The legal term for such final settlement is "res adjudicata," that is adjudicated, settled and finished. All that we can reasonably hope to do now is to provide that every Indian child born and in the State of New York, shall be given the opportunity of living happily and honestly, with a fair chance of successfully meeting the every day changes which beset human beings. We can and will see to it that Indians move along the highway of life side by side and arm in arm with their fellow travelers of the white race. It is well to remind you that at least fifty per cent of the physical makeup of every Indian who is here is a white inheritance. You are white as well as red and you will not find it hard to live with the white people of the State when so much of your blood is really derived from white ancestors.

There are matters that ought to be presented in any report submitted by the Commission. The methods and social life of the Indian people are too important to leave out of any such report. The rights of women and children are more important than the many historic details of olden times which may have interest for active minds. The tomorrow of the present generation is well worth looking after and providing for

by such intertribal reconstruction as shall assure an absolute guarantee that every child of Indian race shall have an equal opportunity to live his life as he ought to and have all the rights that any other child in the State of New York is entitled to under the laws. The state should have a part in such necessary change. If there is a difficulty about the construction of any law or in its application on a reservation to Indians or to the whites who live outside the reservation, the State should have enlarged power. Congress has the power to make such changes and modifications as will secure equal and effective justice in State courts and by State laws to everyone who lives within the limits of the State of New York, whether he be red, white, brown, or black.

It is along this line that the present problem will be solved in the near future. The transfer of control to the State, by Congress, will assure the health of young and old alike; lead to provision for contented, happy daily life in Indian communities; will open up opportunities for the development of the power, the inform power—of these people of Indian blood. These are things that will benefit, that will so affect the "status" of the Indians as to make them what they should be, the peers of the other people of the State no matter what the status, the color, wealth or possessions of such other people may be. God has implanted in the hearts of all the desires for equality and the spirit which will lift up the head and look others in the face. If the Commission can do anything by way of suggestion in the report which will bring about proper changes it will be a happy day for those who have part in its preparation.

I would like to talk longer, but I have been coughing and must stop. I felt I wanted to hear the address of the Chairman and see how far I could agree with him. I think he wants to do the proper thing. If I differ it is for the reasons I have here stated. It may be that

when the final report is presented, we shall have found a middle road and be able to travel together. but I again advise you not to be deluded either by your own desires or the special suggestions of others. Do not cherish false hopes that the Treasury of the State will be opened and you be given the value of millions of acres once the hunting grounds of your forefathers.

You now have a promising future, happy homes, and much can and will be done to make you better and when the times does come and you choose to express yourselves as citizens at the polls, proudly perform your civic duties and show that the Indians of New York State can undertake as successfully as Indians of other parts of the United States whatever falls within the lines of duty, the right, and privilege of a citizen of the State of New York and the United State.

CHAIRMAN EVERETT:

I do not deem it wise to enter into a discussion at this time with any member of my Commission, that is for our Commission to take up when we take up the matter of agreeing on this report. I think it is fair for me to notify the member of my Commission who has just spoken that he is deluded when he draws his conclusions from what I have said that I promise anything more than the facts of the case warrant.

After the investigation that I suggested must be made to determine the title of the property you lay claim to, when I say that it must rest on the facts, I do not feel I am deluded or am leading you into a belief that I am turning over to you the six millions of acres involved.

I am going to say that is a pretty weak beginning argument that maintains you are not going to have it because it amounts to so much. Are we going to say that we won't pay our just debts because we have enjoyed the benefits of the property for so long a period. I will call attention to the fact that the Statue of Limitations does not run against your rights in the State or United States, for you can only

bring an action by the consent of the State. I want to make clear in your minds that I have not attempted to create a delusion and as to the question of my being befogged in a swamp of my own delusions, trust me to attend to that.

I have differed with this particular member of the Commission of the question of what status meant and what it meant in the Statute creating this Commission and which is my authority and which commands me to do a certain thing.

He is mistaken when he says it means his treatment as a member of the Board of Charities as to what the state will do tomorrow. We cannot distort the conditions of the needy today. I am bound to say to him that if the state of New York administers justice to you in the status in which you exist today, the application of his department, to your needs, will be unnecessary.

The Saviour of the world was treated about as I expect to be treated by men who hold views of that kind. Finance has been the contending factor that has rendered families, communities, states and nations, as it was when they divided the Saviour's garments after the performance on his body. We have been preaching and teaching the gospel and I am going to ask the Legislature of this State and the members of my Commission to make the application here.

I hold no delusion to encourage you to believe that you should be possessed of the State of New York. I don't see how I can be found fault with now at this stage of the inquiry because I make the statement that if it belongs to you, I shall report that it is yours.

I shall offer no apology or excuse on account of lacking funds. I was sent out to find the man who was lost, where he was lost and not to find him in some place the least expensive. That has been the contention of some of the members of my Commission. I will not trundle you along with a promise and excuse and let this Commission go into

oblivion as several others have who attempted the solving of this problem. I promised the State of new York, the Indians, and the Commission, on several occasions, that the conclusions should be according to the statement of fact, as to When, Where and How the disposal of this land was accomplished. I want to notify you and anybody else within the hearing of my voice, or to whom it may be transmitted, that I shall do that as Chairman of this Commission. I shall not vary one way or the other as to what that in this city of Albany, all due to the fact that there is a question as to how and why the Indian was in this State or in other words, within the territorial limits of this State. In plain language whether he was a human being or otherwise, but it seems to me that there can be no question but that he is a human being. Gentlemen, you may have a diversity of opinion as I have mine. First of all, I regret the disposition of the New York State Legislature in not providing funds for us to defray expenses incident to our coming here. As I understand, this Commission was created by the Legislature of the State of New York, and it is this Commission who requested us to be here in preparatory to a submission of a report to the Legislature, but sufficient it is to say that we are here.

For the benefit of those who are here the statement which I had formerly made to this Commission, I cannot help but touch up to a certain extent in view of the discord of this Commission, and as I understand, this Commission originated because of the fact that the State of New York was paying about one hundred and fifty thousand dollars (\$150,000.00) of public funds with which to maintain our schools and our highways and perhaps our poor of which Dr. Hill is of that Department. The Statement of Dr. Hill conclusion will be on account of the effect of it.

I am very worry that I differ with the members of the

Commission; but I am not sorry enough to compromise the justice of this conclusion. I should differ with the Legislature, the Commission and the Governor relative to this proposition if that agreement was going to interfere with the honest conclusions of this case. I sincerely hope that the members of my Commission will think carefully before they sign their names to an adverse report which differs and disagrees with the facts as history has established them. We may write our history to a certain extent as to what it will be tomorrow, but we have established that of yesterday, but like the land marks of our forefathers don't let any man interfere with that. Your status and condition is what is and that is what this Commission was authorized to find and report on the same.

MR. JOHN SYDER: (Seneca)

Mr. Chairman and Gentlemen of the Commission, I could hardly refrain any longer from contributing a statement to this body, in view of the discussion of the Commissioner, We are, for the first time, in the history of this State, that I know of or have ever seen a record of, invited to a conference of this character held in the Capitol conferred upon the Federal Government, it passed numerous acts of Congress, among them, sections 2103, 2116, and 2124 (Kappler's Indian Laws and Treaties.) There can be but one question with reference to these prohibitive statutes, that is the constitutionality of these acts. It certainly had constitutional power to enact them, and as to their construction, they are simple and comprehensive, and in it we find that it was unlawful for any state to deal with a tribe of Indians with reference to their lands unless it was the approval of the Federal Government. In fact, that it was a crime to deal with them, which carried with it a penalty unless it was done under the authority of the Federal Government, so that there is no escape from the fact that the Federal Government was a necessary party to such transactions.

The United States Supreme Court, from time to time, had passed upon the relationship between the Federal Government and the Indian and has construed them to be as guardian and ward so that the Indian cannot deal without the approval of the Federal Government. Your titles were imperfect when lands were sold by the Indians that were not confirmed by the United States Government. One of the things to which I want to call your attention to is surprising as it may be, there remains a mystery behind his entire statement. The status of the Indians in this State has been found by the Chairman, although perhaps alone in his findings and conclusions, which required a research of some duration dating back in the history when titles were originated. The Indians, of course, were here it is true before Columbus came, they at that time were recognized as having a right both to the soil and their form of government which the courts have since construed to be tribal government, after which the courts had defined them to be "semi-independent people" and who had a right to enter into a treaty with the United States Government, a method and system that was in vogue up to 1871 when the United States passed an act doing away with treaty making with Indians and substituted Federal Legislature — Why?

Going back a little to the Colonial times and then into the State and then into the State and then the thirteen states which formed the Constitution for the Federal Government, and among other things embodies the right to regulate trade and intercourse with the various Indian tribes within the United States. There is an there can be no question as to this authority, and that in the course of exercising the authority thus the fact that in the course of this legal discussion as to the status of the Indians in this State, we find for guidance all these cases reported in the Federal Reporter and the United States Supreme Court reports. The prevailing opinions in these cases had a tendency to divert the true status due to the fact that there is always

some moneys or valuable consideration involved and thereby diverting the trend of a point in law in a certain desired angle and deciding it in that form dependent upon the matter involved, notwithstanding the true status, which I assume that this Chairman was to find.

As I have just stated, there is no escape from the conclusion of the law and with it the facts as laid down by the Chairman of this Commission. It is evident that he is as certain as I am. For illustration I want to call your attention to a recent decision of the Federal Court known as the "John Case," Western District of New York by John R. Hazel, Judge. His prevailing opinion in that case, in which he says, that in the absence of specific legislation on part of Congress that the Court was without jurisdiction to interfere with the internal affairs of Indians in this State.

With reference to legislation there is now a bill in congress to transfer the authority of the Federal Government in relation to Indians to the New York State Legislature for Indians within its borders, that is to say, all these questions and disposition of Indian interest of every description to be determined by the State of New York and its court when the State in almost every instance would be interested in the event. Take such question as the land under water at Buffalo and Niagara River for which this state has received hundreds of thousands of dollars.

Mr. Chairman, permit me to ask how much money does the State received from taxes levied on our Reservation, State, County and Town taxes? I am informed it is over two hundred and twenty thousand dollars (\$220,000.00) per year. If these reservation lands were out side of the jurisdiction of this State, how can it levy taxes, assuming that the "John Case" was right? Hence, the problem. When we come to compare accounts, were do you think we are going to land? You may spend seventy-five thousand dollars, (\$75,000.00) for the Senecas, but how

will you account for the balance? I hear you talk about moral justice, where is that justice? This may now be a starting point. While I do not care what anybody says concerning any legislation which involved Indians, every bill that is introduced both here and Washington there is always somebody or corporation who will either directly or indirectly benefit by it. It is not done because they love the Indian but because he has something that somebody wants, as our Chairman has intimated. My opinion is in view of this discord in this Commission, I could see that the Legislature started something that it does not want to finish, having found the status of the Indian and not finding it favorable to the State but adversely, it therefore becomes policy for the State to dissolve the Commission without accomplishing anything.

Mentioning a few of financial interest, taxable interest, on our Reservation, the City of Salamanca and villages, railroads, oil interests, gas interest and other interests, as approved of by the Federal Government in whose power it was to legalize them. These interests are owned and controlled by corporations and citizens of this State, who could be, if they are not, represented here and in Washington, whose relationship are more intimate than the Indians.

We frequently hear men of public life say: "What difference does it make?" "Damn the Indian." "He is not a citizen, he pays no taxes, he does not vote, he cannot hurt anyone. He does not take part in politics, both State and National, and therefore he is absolutely without influence, without standing and without recognition."

We Indians are not on the war path. Those days are gone. Why can't we adjust this matter and ask the Government of the State of New York and the Federal Government to approve of a Commission that will adjust all these differences. There can be but three interested parties to clarify the situation. For instance, take this land under water fronting Buffalo in Lake Erie. The only record here as to title the

State could show that it bought Grand Island in 1885. Evidently the State of New York could not acquire the title except by purchase from the Indians, and further, that the State of New York cannot produce a record title to any of the lands under water. Regarding the Ogden Land Company, what do we care what the State of New York and Massachusetts did in that treaty between them, the legal question is - Can these two compacting parties enforce legal rights against a third party not a party to the compact or contract? It is impossible under the law if justice goes with it. There is no authority superior to that of the United States Government in relation to Indians, whatever the disposition of this Commission may be, I am afraid it cannot be to execution except only as it might be taken as a memorandum of admission of facts. I thank you.

HON. A.C. PARKER (Education Department, Seneca)

The last statement of the speaker, I think agrees with the opinion of the various Committees of Congress and the State Indian Commission, that whatever opinion this Commission may reach in the final determination of the Status of the Indian, it will rest in a decision resulting from a suit brought before the Supreme Court of the United States. The Secretary of the United States Indian Board only recently sent me a memorandum to that effect, stating that perhaps there were three methods which could be used.:

FIRST: A suit brought by the Federal Government against the State for trespass of jurisdiction.

SECOND: A suit by the State of New York against the Federal Government for trespass.

THIRD: To throw the matter into the hands of the department of Justice for determination.

I think we all see that it is the intention of the Chairman that full justice should be meted to the Indian people of the State and when the State of New York pays its bills incurred with the Indian, and the Federal Government fulfills every obligation it has

contracted, thru treaties or otherwise, you will be surprised how quickly this so called Indian problem will vanish.

CHAIRMAN EVERETT:

I find that it is now somewhat past the noon hour. There is a restaurant in the building. It is the desire of the Chairman to continue this discussdion until everybody has an opportunity to express his opinion. We shall be grateful for any information that will add light to the subject before us and assist us in the conclusions of the Commission and if you so desire to continue we will adjourn this meeting until 2:30 this afternoon.

MR. M. SOLOMON (st. Regis Mohawk)

Mr. Chairman, one question -- The Attorney-General is a member of this Commission, is that true?

CHAIRMAN EVERETT:

It is.

MR. SOLOMAN:

Will the Attorney-General or a Deputy be present during this Conference?

CHAIRMAN EVERETT:

The Commission was so created that the Attorney-General himself is a member and he cannot substitute a Deputy. I cannot answer your question. He was notified of this Meeting; but of course I cannot use force to bring him here.

DELEGATES AND FRIENDS OF
SIX NATIONS OF INDIANS
RESIDING IN THE STATE OF NEW YORK
PRESENT AT A MEETING HELD
FEBRUARY 24, 1922
AT
CAPITOL, ALBANY, NEW YORK
ASSEMBLY PARLOR

Chief Ernest _____, Cayuga, Irviling, N.Y.
Chief Lawrence ____cko, Iroquois, St. Regis Res., Quebec, Canada
Mr. James Dee ____, Iroquois, St. Regis Res., Quebec, Canada
Mr. Joseph Johnson, Oneida Tribe, 960 S. S ____ St., Syracust, NY
Chiefe Marshall John, Oneida Tribe, 283 Tremont St., Syracuse, N.Y.
Chief W.H. Rockwell, Oneida, R.D. #1, Nedrow, N.Y.
Chief Chapman Schanandoah, Oneida, R.D. #1, Nedrow, N.Y.
Mrs. Emma Mead, Oneida, Indian Lake, N.Y.
Mr. Walter Kennedy, Seneca, Killbuck, N.Y.
Mr. W. Hoag, Counsellor, Salamanca, N.Y., Seneca
Chief Warren Brayley, Tuscarora, R.D. #18, Lewiston, N.Y.
Chief W. Chew, Tuscarora, R.D. #17, Sanborn, N.Y.
Chief Clinton Richard, Tuscarora, R.D.#17 Sanborn, N.Y.
Chief Joseph Terrance, Mohawk, Hogansburg, N.Y.
Mr. Mitchell Laughing, " " "
Mr. F. Terrance, " " "
Mr. Michael Solomon, " " "
Mr. John Snyder, Seneca, Legal Representative, R.D. #2, Irving, N.Y.
Chief Jessie Lyons, Onondaga, Nedrow, N.Y. R.D. #1
Mr. Lyman A. Powless, Oneida, 712 E. Washington St., Syracuse, N.Y.
Chief W.K. Cornelius, Oneida, Musey, Canada
Chief Andrew Gibson, Onondaga, R.D. #1, Nedrow, N.Y.
Mr. Harrison Farmer, Onondaga, Nedrow, N.Y.
Mr. A.W. Parker, Cayuga, Versailles, N.Y.
Chief Edward Spring, Cayuga, R.D. #1, Irving, N.Y.
Mr. Lewis Jimerson, Cayuga, Collins, N.Y.
Chief Lettie Scott, Cayuga, R.D. #1, Irving, N.Y.
Chief Solon Sky, Tonawanda, Akron, N.Y.

ASSEMBLY PARLOR, CAPITOL,

ALBANY, N.Y.

February 25, 1922

PRESENT:

HON. E.A. EVERETT, Chairman of the New York State Indian Commission
DELEGATES and FRIENDS of the Indian Tribes

It is now somewhat past the hour to which we adjourned and some of are anxious to correct some things that came out yesterday. I trust that the individuals will not get mixed up and confront one idea with another that will be contradictory.

My two associates are, I see, vacant quantities this morning. I sincerely hope it was not due, concerning one, to the friendly, frank discussion of our personal and business attitude regarding the handling of this matter.

No matter how strong a man may feel entrenched in his own ideas, he is always grateful for any support anyone may offer in accordance with the things he expressed.

I am aware of the fact that in taking up a subject as important and broad as the question of the status of a Nation, that I might be forgiven for having forgotten, overlooked or failed to appreciate some particularly important part.

I was compelled to adopt a plan or policy in following out the direction that the status provided as to what I was to do and let me say they spent considerable time drafting this Bill or putting language the command that went to this Commission and after a large amount of discussion they concluded that the word status applied to this subject, as taken in its complete broad sense, was the best word that could be used and to use any more in explanation would be of no use in directing the individuals that were to conduct the examination in accordance with the word "status". I offer my explanation as to

the meaning of that word and I am content to let it remain in the language in which I have expressed it and let the public and legislature pass on the question of whether I made the proper interpretation of that command. I was charged with having excited an idea as to the reward that my interpretation of the inquiry under the word "Status" created in the minds of the Indians.

I am going to refer to the first meeting we had when we visited the reservations in the State as it was the only Conference which was attended by the Attorney-General. Inasmuch as you are not all supplied with copies of the Hearings held at the different reservations, I am going to make a brief statement of what the Attorney-General said at the Onondaga Reservation at Syracuse on August 16, 1920.

After the Meeting was organized, on the Onondaga Reservation, and the different Chiefs had stated their relation to the tribe, and we were formally launched on our expedition, I made these remarks:

"Mr. Chief and members of the Onondaga tribe, we come here as representatives of the Legislature of the State of New York, and of the people of the State of New York. Several attempts have been made to adjust the affairs existing between the Indians and the white men of the State and Nation. Now, a decision of a Federal Court holding that the Indian is a ward of the Federal Government and not of the State, was the cause for the creation of this Commission. There have been several thousands of dollars spent by the State of New York in the care of the Indian and carrying out of treaties which have been made with him years gone by. The decision, holding that the Indian is a ward of the United States, would make it a crime for the State of New York to spend the State's money for the Indian if that were the case and fact; and therefore, that was the cause of the creating of this Commission. Now, the statement made in the statute instructing us as to what we were to do in this matter is in the following language - we are to discover and report to the Legislature of the State of New York as to what is the status of the American Indian residing in the State of New York. In interpreting the meaning of the word "status," as we have construed it, we should go back and discover, in the first place the relationship that the white man sustained to the Indian and the Indian to the white man when he first came to this country. That is our interpretation and duty and what we propose to do. We came here to hold a meeting for the purpose of finding out just what the relationship was between the Indian and the white man when he first made his trade or treaty with you."

"In some instances, you have not been considered as a Nation or as a people of a nationality having a country. The courts and authorities have failed up to date to establish your relationship to the white race in a manner that we could consider the question settled. For example: - One of our recent decisions states, in the first place that the Indian is an alien. You know what that means, - a person not as resident of the country in which he is now living, not a resident in a legal sense. The next paragraph states that the Indian has never disposed of his right to self-government and further that you are wards of the United States, I am repeating these decisions and statements to you because they are now the Law of the land, a judicial decision is the law until some other higher court reverses it. We are looking to you, so far as we can, to furnish us with a record of the history of what your tribe or tribes did with the white man. It is conceded and must be by everybody that you were inhabitants of this country when it was discovered by the white man. My comprehension is that I must go back and find out, if possible. just what your relationship was at that time, how they considered you, how the questions of international law will apply in your case and what the decision of this Commission should be following the accepted laws applying to international matters. Because if you were a nation when the white man landed, you were entitled to the treatment that one nation should receive at the hands of another nation., I am making these remarks to make you acquainted with the difficulties of this problem. We have with us the Attorney General of the State of the Legal department, as a Legislature we look to that department for instruction in legal matters and I think General Newton will state what his intentions are and what he will endeavor to do in performing his part of the duty.:

Then the Attorney-General Charles D. Newton addressed the meeting in the following language:

"Mr. Chairman, Mr. Chief and members of the tribe, ladies and gentlemen:- It would be idle to say to you that I have a very intimate acquaintance with the rights or alleged rights of the Indians, because I have not and few people claim to have. The purpose of this visit, as stated by Chairman Everett, is to get together facts which will enable the law making power of the State of Nation to find out and determine the exact legal status of all of the Indians of the whole country. Now, to my mind, so far as that is concerned, it is not of as much importance to you, as individuals, as some other things that will follow the determination of the right and status. If I have any qualification which is commendable, it is one of fairness, perfect fairness. That hurts nobody and gives to everybody in every part of the country that which is absolutely their due. Everyone is entitled to that and you all are, and with it you will all be content. Now, undoubtedly, the foundation of the legal right or status of this community and all others similarly situated depends entirely on the original acts and treaties which are undoubtedly older than most of us here and shall need studying and the intent of your forefathers and those who help them must be determined and must be without any prejudice and your rights should be fully protected. As far as the Attorney-General's Office is concerned, as long as I have the management I can assure that will be its program. First, to find out that is

right and fair toward you and the community and when that is done reach conclusions that will do no violence. Now, personally, my idea of the situation is that what you ladies and gentlemen need is an opportunity to improve yourselves and your conditions. There are two things needed, education and an opportunity to follow your own ideas of government so long as they are conducted in the interest of your organization. But, education and a knowledge of the ability to learn and earn are two of the factors, which individually will be of great benefit to you, yes, greater than any opinion reached by the Attorney-General's office of this State. I am here giving my personal attention because it is novel as so far the statutes and treaties have never been presented to the Attorney-General for opinion and it is with an idea of getting some personal touch of your surroundings and conditions, so that in the end, when the whole thing is brought together, we may do what is right and should be done, in your interest and every man and woman be satisfied as well as similar communities throughout the State. You will undoubtedly receive a benefit and every person will be treated fairly."

I will not read any further as that entirely covers the ground, but I want to stamp out of the mind of every fair minded man, Indian or white, that I have assumed a flight in the air without any goal in the position that I have taken as to what this determination should be. I most decidedly refer to the Official statement of the Attorney-General and ask you and anybody who understand the language if he did not without qualification state that wherever the line is drawn in justice and right, the decision shall be made from that standpoint. I want you to understand that a comprehensive statement from a mind as well training as the Attorney-General's is not a wandering in a swamp of fog and bewilderment.

I am going one notch farther. If I could become possessed of all the wealth which is the subject of this contention, for taking the position that my associate did yesterday, I should refuse to accept it for that consideration. We live here a while and the recollection of the fact is called memory which carries a tremendous store of things that we have done.

Let me impress on your mind the real meat of a remark made by a man who was not supposed to think deeply. A banker died in Plattsburg and a banker of Ogdensburg asked how much he left (that was the first remark he made) and the wag who answered him said, -"He left every damned cent." Just think that over and think how useless the

persuasion is that leads us to do something wrong for the sake of a few dollars, blotting out human soul with something that the Lord can't wash off.

I admit that talking in this strain and submitting these ideas to our Assembly during a period of economic hysteria, is almost casting real pearls into a pen (I will not say what animals inhabit the pen). Do you know that you have destroy a lot of pearls in this world before the people will stop and consider?

So having to my entire satisfaction, placed the case before you so that you are able, with the records we make, to come to a determination as to whether the Chairman's hysteria of imaginary wealth offered to you is a swamp of delusion that only a distorted mind would think of, I leave you to form your own conclusion. As to that conclusion, I am ready with the facts before you to let you make the decision.

CHIEF JESSE LYONS: (Onondaga)

I am representative from the Onondaga tribe, nation or band whatever may be, they say I shall come here and attend this meeting so I am here and very glad I came. I am not going to say much, I am going to say a few words of my own opinion, the opinion what I represent. As a Nation, we are strong; we believe that George Washington on October 1784, at that time sat down thinking about the Indians, simple comes into his mind that he will draw a treaty and he did and he brought that treaty before the Iroquois of New York State Indians. The Indians considered the matter thoroughly and then decided to answer and they signed it, the Individual Chiefs and we believe that is the treaty only stands today. We are strongly in favor of that treaty. On the State matter of treaties, 1788, 1795, 1793 and 1817 where the State got the justice to make that after George Washington told the Thirteen Colonies no more treaties shall be made, after he

made the treaty, so we believe. George Washington gave us the guarantee we make our own laws and enjoyment and no person would be disturbed. Where the State got the jurisdiction I don't know. We are here today to try to find out, to understand, we stand outside. I am speaking for the Nation of the tribe of Onondagas, If any lands was disposed of an honest way, we don't want to lay hands on them. Where it was disposed on dishonest unjust way, we don't want more than is just what is coming to us. We do believe where the lands today was never sold, was never paid. I have five maps on hand that can reduce it where the white man take possession today that he has no justice to hold that possession. So, I won't say much about it today. I have been taking up this matter too long with Mr. Everett, he knows who I am and what I am trying to do. One thing I am very glad, we had it once a white man that was George Washington, and the second white man shows up Mr. Everett, and his stenographer goes around now without pay trying to do what she can. I thank you very much for the work you all are doing to show the Indians the equal rights on justice. So I will say, "Mr. Everett, go as far as you can, find out where our rights are." We are here today to try to find out the benefits for the Indians and not only for the Indians but the whites. There is a day coming, we will have to get together again and let us with justice not because you get the best of me, because you have most men and money that I have; but justice because we are different color. I don't blame this young class people just growing up what was done years and years ago. George Washington guaranteed he was going to be our brother and made this Constitution of the Thirteen Colonies accept and agree. Everytime our Brother gets into trouble, we get up and help him. We believe that is our Brother. What our people done when you fight against the British? We got up and fight too. What when you had trouble with Germany? How many Indians volunteered to enlist?

Not a single one was crying when he went on war path. He was just as happy like when he gets up in the morning for his breakfast. What our brother he guaranteed us that is what we stand by today. I have a friend here, I like him to take my floor for a few seconds. Mr.

Guilfoile --

MR. FRANK J. GUILFOILE:

I was called upon to say something in this matter because my friend, who just introduced me thinks I might know something about their history. the history of these Onondagas and the Five Nations, I will add the Six Nations. I want to state to you how I be came interested. We had an organization called the Mystic Crew of America. I was one of the original committee to find out something of the Indian law, to make it interesting to the white men. The Mystic Crew is founded on the legend of the Indians of the State of New York, the Iroquois. When this Civic organization was promoted for the welfare of the City of Syracuse of the State of New York, many prominent men were introduced and became members, among them was the Hon. Charles E. Hughes who was Governor of the State at that time. The Chief who just sat down at that time made a very interesting speech, more eloquent and sincere than today and he interested me for the first time in the Indian story and the Indian life and in connection with my duties I learned something about Indian lore. The Five Nations, as you have stated, Mr. Commissioner, was a Nation, it had a status of its own before the white man came to this country and it is upon that status that their legal rights are based, if they have any. You are the first white man that I have heard say that they had legal rights, that they are entitled to somewhere near six million cores of land in New York State, I would have gone home yesterday, but there is an old aged Chief of the Onondagas, eighty=six years old, Mr. Jairus Pierce, who intended coming to state the rights of the Onondagas

for their claim to the land. He served as a clerk for the Six Nations and was interested with General Carrington in 1889 and 1890 when the United States took the census of the Iroquois in New York and he intended to come but is ill at the hotel and he requested me to state as best I could their history.

I understand the position taken by the Chairman of this Commission. When men are subject to censure they do not like to stand up and champion a cause and feel they are falling into a white mire of illegal delusion. I have for the first time learned what it means by courage of conviction. I have heard it spoke, - "He has not the courage of his convictions." I believe, Mr. Chairman, that you have had the greatest courage of your convictions in making the statement you made in behalf of these Noble Red Men of the State of New York in regard to their lands. I listened to your statement yesterday, with greatest interest. You have heard the eloquent tongues of these first Americans sitting around the table voicing the sentiment of themselves and their people, asking for a chance to be heard. It has always been to the present that, - "The people have ears and hear not, Eyes and could not see." You have listened for the first time to their cause. You have looked it over and you are a man have given your decision on that proposition, far fetched as it is, away beyond where I would fear to go, but in the discussion of right and in the call of justice. You stated that when this United States of American was struggling for independence, they needed some assistance and support and that after talking with General Washington, they made the treaty which you so ably and eloquently related and that as some of the consideration, they should have the land specified in the treaty of October 1784. For the first time, it drew the boundry line of the State of New York, beginning at the mouth of a creek four miles east of Niagara upon Lake Oswego or Ontario, southerly to Buffalo Creek thence south to the

north boundry of Pennsylvania west to the River Ohio. They petitioned the colonial government before it became the State of New York under the Union, to make a survey and it was never settled. We settled it afterwards when the united States became a Union. That treaty was ratified in 1789 that is the treaty made before the adoption of the United States Constitution was reaffirmed after the adoption of the Consittution. Under the Confederate States they had the right and power to make that treaty and it was legal and they ratified it again when the United States Constitution was adopted in 1789 and in 1795. As another art of that consideration, if you will pardon me, I will say they gave the Indians calico, at first about six or seven yeards, but it has dwindled down to about two and a half yards now. By so doing, it makes the question of treaties and consideration absolute and perfect from a legal standpoint; at least it forms an international claim down to the present time.

Now comes the questions which interested the Onondagas. I had never quite thought so far as what you have stated here that a treaty must be made with all of the Nation and none could be made with the Nations separate. I never quite thought it out in that light as you have stated and which I do believe true, after due consideration. This matter has to be determined judicially by justice and not by legislative act. There is nothing the State of New York can do for these Indians, except in justice they should pay them back or straighten the title clear and get a quiet claim deed from this time on.

In 1788 Governor Clinton and a Commission and the State of New York entered into a treaty with the Onondagas in regard to the purchase of their land, that treaty is the basis of the title of the Onondagas. The substance of that treaty is that it cedes all the land (But it doesn't describe what their lands are in that treaty by metes

or bounds or any description whatever, there is over two million acres in the strip running from Ontario down to Pennsylvania, thru Waverly, Binghamton, Lake Ontario above Oswego) for one million French francs or French crowns and give hundred pounds of cloth. In that treaty they reserved a mile square around Onondaga Lake and then started south. We leave a description of the territory to the State and county records, The Onondagas were the keepers of the Council Fire of the Five Nations. They had a government the Five Nations with fifty Chiefs consittiting the Congress of the Iroquois, fourteen of these belonging to the Onondagas. The Council of Peace of which Morgan wrote was formed by the intelligence of the Indian tribes and was the forerunner of the United States of American upon which Franklin in 1755 based his formation of the government and the thirteen first states started on the same idea that comes to the status of what they were and have been. I say that when you put a legislative enactment over them you have a right to counsel the Indian leaders or Chiefs or Counsellors. That isn't asking too much, it is only fair: but it has not been done and the fact is that nobody seemed to think anything about it. I arose to compliment you on your courage as I heard your associate and know your stand and what courage is necessary to make the statement that you have and I want to add my own in its humble way on behalf of the Onondagas. I am not an Indian, but I believe in the justice of their claim and hope the State of New York will give you the appropriation you require and also give to these people what belongs to them.

CHAIRMAN EVERETT:

I maintain, as a matter of law, as it applies to Nations and has been termed International Law, that no country or nation has a right to legislate concerning the rights of another country. I maintain it is beyond the power of the United states or the State of New

York or any State to legislate or fix a rule by which the Nations shall be governed or controlled so long as the other nation remains in and upon its own territory.

Intercourse between nations is always accomplished by a treaty and that was adhered to in all matters that transpired between the white man and the Indian and had been a fixed and established rule until the termination and end of the Revolutionary War and the completion of the treaty with Washington after the establishment of the United States Government. For example:- The St. Regis tribe of Indians furnishes an example to sustain the statements just made as that reservation reaches across into Canada where the St. Regis River empties into the St. Lawrence. No attempt has ever been made to control the Indians on the St. Regis reservation residing within the boundaries of Canada. The Chairman is firmly of the belief that the St. Regis reservation lying within the boundaries of the State of New York is a separate and distinct a territory from the control of the United States or State of New York as is the Canadian reservation.

CHIEF CHAPMAN SCHANANDOAH (Oneida Tribe):

I came down to listen to what was to be said in regard to the status. It is hard work to stay on the track in my power of the English language; but I think you would be as big a butcher if you tried to talk the Oneida. I dare say that many years ago, when white man landed on our soil, he was human like the one he discovered. We made friendship for self-preservation, self-preservation is one thing we all possess. Lowest type of animals have that instinct. When the white man came here he loved his country and the new world that he discovered was an idea that came to him that he would like to live here and get away from the Mother Country which suppressed him. He found a hiding place, after a time it went on and they got rather bold about making a good home and came over one by one until there was a

hundred million today. The white man knew how to take advantage of the Indian, he started with whiskey and the Holy Spirit by Jesus Christ and it worked very good. He found these natives at the end of the Hudson River, but they can't go to war with these powerful Iroquois, if they could the Indians would be all killed but they didn't or we wouldn't be here today. Same with all races of men, we know there is good and bad men and we must plow thru these factors, create a sentiment that is right. I believe that is the way the relationship between the white man and the Indian simple white man fight among himself so the Indian. The white man never undertook to go to it and take the lands as the way in other countries of his own brother. He found the Indians warlike people that he couldn't s=enslave like the African. I think that is the true status. His inner conscience, he couldn't bear to kill them, I believe like Cortez did the Aztecs so we have no more Aztecs, no more trouble in Mexico.

The Dutch colonists went to Africa and made slaves of the negro, he didn't make any treaties with them. In the sixties this country went to war with the slaves and after the war settled the negro problem.

The Indian form of government is getting rotten, so is the white man's. If Christ came on earth today, what would he do? Before the white man came, our civilization was primitive but not selfish. We have to overcome this selfishness before we can land this six millions of acres of land. What is the use of me standing and telling the truth if I can't get the consent of the United States? The big matters come from Wall Street, whatever we undertake to do, it is finance point of view. It is hard problem, a hard hill to go over; but what can we do? The white man don't care what he does to the Indian, he has no voice to vote at election this State tied his hands everywhere on the reservation. There is the powerful factor of human

living today - the newspapers, they hang the innocent. The printing press don't run like apples naturally grow on trees, but runs by the human mind. In Syracuse where I spent most of my life, when an Indian does anything wrong or bad it is told in the newspapers, a whole column?- but, when he does something good, nothing. The same way with the Commission, I dare say they print only what is fair and square with certain type of men, so there you are.

I don't see why we should spend much time talking this over, we may sit here a month and not bring us any closer to the truth. Here was William Penn, the first white man who came here, the King said he had paid for the lands, but anyway Penn came here and bought the land from the Indians. The French were driven off and then the Thirteen Colonies go tired of the Dukes and Lords and had the Revolutionary War. Washington fought for this country and General Brant who went with the British took all the Indians but the Oneidas and went to Canada, after the war. Old Chief Schanandoah he fought in those days but not for money. The Indians with Red Jacket and Corn Planter and others went to Philadelphia and Washington said, "You fought over something that don't belong to you." We made treaties and the conglomeration of human minds put us where we are today. It is a might question that we get our rights, but not man can get them with the dark processes of law. There is the Constitution I must say it has been over-ruled and amended and where we end, I don't know, our poor Consittution it will not drink water. What status did Cuba and the Philippines have, how many lives did it cost Uncle Sam to put them in self-government today? We lost everything they drove us down to about twelve by twelve and now they look for our status, how can we recover? We must have some relationship to get the Kansas money for that was in the Courts forty years, old man Jenks, for two generations before they got landed that few dollars. I am a butcher and mix my story. I am

glad I came and I thank you.

MR. MICHAEL SOLOMON: (St. Regis Mohawk)

After listening to the eloquent oratory of the different Indians of the several tribes of New York State Indians, it is with reluctance that I make an attempt. I am speaking for the Mohawks of New York State, at the present time located in the northern section of New York State, called St. Regis Indian Reservation.

I believe I will go back to an earlier date and speak on the Mohawks, a few moments and deal with our present situation. All the tribes have been heard and we should be heard. It is with pleasure that I am today treading the grounds of the lands of my forefathers, the Mohawks. The Indian of America is a human being and the soul of immortality is in him and as such he is deserving of consideration, justice and respect at the hands of his white brothers. In the early period the French entered this country seeking to spread the Gospel and the Indians were susceptible and those accepting the teachings of the early workers of the Church left the hunting ground and domain of our people and went into Canada. For a while they located at Caughnawagas in Montreal and made the St. Regis Reservation in 1754. The Mohawks guarded the eastern door of the Iroquois League, the Senecas the western and the Onondagas in the Center the Council fires. That was the situation of the Iroquois Confederacy as explained to us on previous occasion, by our learned friend A.C. Parker, State Archeologist. During the War of the Revolution, when the Thirteen Colonies arose against the English, our people sided with the colonists against the English for freedom. We have a prominent figure in history, Col. Lewis Cook, a St. Regis Mohawk, who attained that rank in the army of Washington, and was a guide for the Colonial Troops thru the Adirondacks, Lake Champlain, Saratoga, and Albany. I mention this to prove that were loyal and espoused the cause of the Thirteen Colonies.

Along in the year of 1788, May 5, the Legislature of New York passed an Act granting authority to the Commissioners of the Land Board of the State of New York to dispose of a vast tract bounded on the south by the Mohawk River and Lake Champlain and on the north by the St. Lawrence River, consisting of about three million eight hundred thousand acres of land. The State surveyor in exploring this vast tract of land came to the St. Regis Indian country and found a habitation of Indians called the St. Regis Indians, and in 1791 Alexander McComb purchased this tract. When he made the proposal to the State for the purchase, a section equal to six miles square was reserved out of this sale for the Indians. In that proposal it was agreed by McComb and the Land Board that the parcel was to be reserved. Now, there is no question in my mind but what the fee of the soil was bested in the Mohawk Indians who loved this country and came back and settled in the St. Regis Reservation. The State claimed title to these lands by virtue of grants by Charles II to the Duke of York and from the New York bears its name today. After this sale, when they Reserved the six miles square, our people made four or five trips to Albany putting in their claim to the title of this land; but at that period as now they ignored the just demands of the Indians. But in 1796, the State of New York, thru its agent, and in order to extinguish the Mohawk title to this tract took pains to make this treaty valid and binding, requesting the United States to have a Commissioner present when this treaty was drawn in 1796 and this was done. The State agreed to pay the Indians \$336.00 annually forever and they reserved the tract six miles square and one mile on Salmon River and in Massena where the million Dollar Aluminum Company is now located.

Now, later on when the national boundry line was fixed between Great Britain and the United States, at the 45th meridian, it cut the Indian village in two and the six miles was on the American side.

Our people from that time have resided on the American side being peaceful, pursuing the arts of peace and trying to exist and have resided on the American side being peaceful, pursuing the arts of peace and trying to exist and have to the present time succeeded. From 1816 to 1848, the State of New York and the Chiefs of our Tribe had seven different conferences held in Albany and disposed of, ceded to the State of New York about ten thousand acres of the original reservation of 1796.

According to the latest developments and as it has been ably presented to us people, it appears that these transaction are invalid and as such it is necessary that the Commission should take this into consideration in its final findings upon the status of the New York State Indians for it is necessary that the title be gone into and determined. Speaking of title I may be permitted to read to you a short paragraph bearing on the subject of title, the claim of New York State by virtue of the grants made by the English King to the Duke of York is to my mind not binding in 1922 in an enlightened Court of Law.

"Title of lands by an established law recognized by all civilized nations is naturally vested in the primitive occupants and cannot be take from them unjustly without their consent. The law of occupancy or taking possession of those things which belong to nobody says Blackstone, is the true ground and foundation to all property or of holding those things in severalty which by law of nature unqualified by that of society were common to all mankind. But when once it was agreed that everything capable of ownership should have an owner, natural reason suggested that he who should first declare his intention of appropriating anything to his use and in consequence of such intention actually took into possession, should thereby gain absolute propriety of it."

In view of these paragraphs just read to you, to my mind altho I am not a lawyer, it conveys to me the impression that the Indians unqualifiedly have the true title of these lands, it was their domain, their country from time immemorial, before Columbus discovered this country. It is their true territory irrespective what the King of England says, the third party the Indian must be considered. Let

me read from the Laws of New York, Volume 1: -

"The United States in Congress assembled shall also have the sole exclusive right and power of regulating the alloy and value of coins, struck by their own authority, or by that of the respective states - fixing the standard of weights and measure throughout the United State, - REGULATING THE TRADE AD MANAGING ALL AFFAIRS WITH THE INDIANS, NOT MEMBERS OF ANY OF THE STATES: PROVIDED THAT THE LEGISLATIVE RIGHT OF ANY STATE WITHIN ITS OWN LIMITS BE NOT INFRINGED OR VIOLATED"

Now, apparently this law passed by the first Session of New York State Legislature in 1777, ceded the right to the Federal Government. What right the state may have assumed will be discussed in view of the last decision of the United States Supreme Court which held that Indians holding tribal communities are wards of the Federal Government. I will read to you a brief prepared by an able attorney which covers this situation: -

(Brief is attached as Exhibit A)

Quoting these laws, as enacted by Congress, I take the stand at this Conference in this Capitol today and maintain that all purchases made by the State of New York for the possession of Indian lands within the boundary of an Indian reservation in the State of New York, without the authority of the Federal Government, is illegal. I consider it as an illegal conveyance and as such the Indians are entitled to consideration and a readjustment of the same. The latest decision of the United States Supreme Court reaffirms Judge Ray's decision.

I am here today speaking before this conference and our people and Commission. I say I am heartily in accord with the Chairman of this Commission in his findings and the attitude he has assumed on this subject. Before you can define and finally determine the status of the New York State Indians, you must go into the title situation to all the lands that have passed from the Indian's possession into the hands of the people of the state of New York and as such I am going to and will render every support and means at

command to have this brought about. It seems to me that the Chairman of this Commission, with the exception of one or two members, stands alone in this matter. He has not the hearty cooperation of his associates. Why? Because if they go into this matter honestly and with a desire to give the Indians of this State justice then what will be the result? New York State will have to be a party to a readjustment of land transfers in the long ago. What the amount will be it is impossible now to tell. Now, I think I can see the reason why his associates are not present, they are looking out for the interest of the State of New York to the disadvantage of the Indian. So, before concluding let me say: - "Let us make an honest endeavor to assist the Chairman of this Commission, he is an honest and just man and sincere as his conscience dictates to render justice in this matter and I say, let us try and arrive at some common grounds of understanding and see if we cannot bring some results to our people. Today in 1922, let us make this meeting eventful and accomplish something that will clarify the Indian situation. I think when New York State sees it duty to the Indian, in this intelligent age, the good people of the State when public sentiment has been created will insist and demand that the Indian be given justice and his due. I thank you.

CHIEF J. WARREN BRAYLEY: (Tuscarora)

Mr. Chairman I won't detail you very long, as a delegate of the Tuscarora Reservation; but wish to announce that in looking over the Minutes taken at our reservation, the Chairman gave the impression that he would furnish us a statement of his findings of which he did and that today meeting would be held at a central location. We just wish to make a statement, we feel it is the duty of this Commission to reimburse the delegates who have to make a further trip than necessary.

(Submitted statement of Tuscarora Nation, attached as Exhibit

B)

CHIEF SCHANANDOAH:

The decisions Judge Mosher read they are like an accordian they go both ways, the Courts they think they have the solution they must do everything to suit themselves and are doing it and continue. We want the feeling of humanity. We know the Court decision one day and the next it turns. This is not the principal of Americanism. The white man came looking for fraud and then spent twenty billion dollars in Europe to protect Belgium as a base. I know how the Indian and white man feels about making laws. We fought to protect this American via Indian title. Look at China, and Japan looking this way, when we got our freedom in 1776, they said the Dukes and Lords, they can't govern themselves. They found friends of human mind and go on several generations then brain develops and they spoil by laws, we don't need no laws. On the reservation we haven't made laws in hundred years and we get along. We don't spend no money, there is enough for all. I believe the human race started from this country, first Adam and Eve. The white man said- "Why can't I be free like the Indians." They forget that. We still read the Bible, that don't change. Our treaties with the United States some people want to abolish them, why should they, they should stand. This country some day, the whole world will get civilized like we are.

MR. WALTER KENNEDY: (Seneca)

To sustain what I said yesterday in regard to us Indians being free and independent nations, in 1838 and 1848, Seneca Nation had a Republican form of government which the State of new York ratified, confirming there was a Seneca Nation. Later amendments were made and ratified as late as 1900 again ratified by Legislature of New York. Can there be a doubt raised that there is a Seneca Nation? We have our own form of government, elect our own officers, is there any doubt we are a Nation? I say "no" the state of New York recognized us as a Nation, free and independent on our own territory.

CHIEF WILLIAM D. CORNELIUS: (Canadian Oneida, Muncey, Canada)

Mr. Chairman, Members of the Commission, Chiefs and Representative of the various tribes of the State of New York, Ladies and Gentlemen:

I wish to express my pleasure to be present at this conference and listen to what I have heard expressed regarding our people. I am sure it is with pleasure we note the aim of the Commissioner who has so ably expressed his opinion for the cause of the New York State Indians. We are sure we are a unit in expressing our opinion that he has been the means of giving us this hope that we may again find some sort of hope that we may regain what we believe was our own inheritance from our ancestry many years ago.

No doubt they looked for the future when laying out their plans to enjoy this good land they inhabited from time immemorial. As I viewed it here and went to the State Museum, I must congratulate the designer who is a Seneca Indian, Mr. A.C. Parker. It brought me back to the old days of our fathers when they possess this beautiful country and back to the days when the Indians were out on their hunting expeditions and gave me a great warmth in my heart to think of those days, the glorious and independent life the Indian had in those times. If there was ever an independent nation on the face of the globe, I am sure that the Indians who lived in this territory were one of those people. I understood our Chairman to say there were wonderful people, descendants of an honorable and noble people, creating a great Nation by a government instituted among the Five Tribes known as the Iroquois in the State of New York.

Now, we get at the root or foundation of that great Confederacy. Some will say it was for conquest, I am here to say it was not. In that Constitution it said it was for the great law of peace. Many hundreds of years ago, the Chiefs of the Clans brought peace to this continent. They laid the foundation of the most wonder-

ful government which ever the civilized nations of Europe never knew. The foundation of the Iroquois Peace Conference was laid long before the first European ever set his foot upon this great continent. What did he find? A great nation and peace reigning from the Atlantic to the Pacific.

Many hundreds years ago, the founder of the League, De-Han-A-wi-day selected or created Chiefs in the different clans among the tribes and brought peace to this continent. Ambassadors were sent to carry the message of peace for the great Council of North America.

This peace carried out through this Great Council of North American laid the foundation of the most wonderful government which even the civilized nations never knew.

Just recently we helped Europe establish democracy and arranged that the Nations should have a hearing for the adjustment of grievances and the foundation for this great Peace Conference was laid in the IROQUOIS PEACE CONFERENCE of many, many years ago.

Don't you think it is true, the statement of our Chairman, that the Indian was never considered an uncivilized being, it is out of the question.

I heard in the discussion of this great United States founded it on the great Iroquois Nations Confederacy.

Our forefathers gave an illustration of what was meant by Union. First you take one arrow, which is easily broken; they two arrows which is harder to break and three which is still harder; then four and we come to five arrows and you put them over your knee and you can't break it. That is Union and in UNION IS STRENGTH.

You say that the United States of American was founded by George Washington and many nations of Europe helping, yes, and the Indians tool.

I can say that the Constitution of the Iroquois Nation still

exists and today it pleases the Chairman to hear us. Some say that the Indians located in this country had no form of government, no regular places to live in, I beg to differ. True, history has written that, but sometimes they need contradiction, for there are some things written in text books of the children about the civilization of the Indians that are not right and my contention is I don't want the children to know such things, tell them the truth. We were not savages. That is what I resent as an Indian. I am proud of my blood and race as an Oneida, it showed the same principles as George Washington who like the freedom and so did we as a Nation.

Must it be said that we have to plead and plead to get our just rights? I think the government of the United States should say: - "We are in the wrong, the Indian is right." Let me say: - "We want just common, human justice, will you give it?"

We believe in the Great Spirit who rules and overrules us, yes, as individuals and collectively as nations. I heard the Chairman say, "If the United States Government says they won't recognize the rights of the Indian Nation, I am afraid disaster will come to our Nation."

We can't avenge the wrongs, that time is gone. We can work. Now, here today is one of note among us, Chief Schanandoah, who served in the United States army and made one of the most wonderful discoveries, a powder known as "smokeless powder." But, we have no thought to fight now, we can't fight now; we are in the minority, we are only a small number. Why is it then, that we have to plead and plead our case?

I think there are enough broad minded men in this great country of the United States who are sent to the Legislature to legislate for the people's welfare who will be just by the help of that Great Spirit who puts into minds "right judgment." For if we

use our own minds, we are apt to be selfish and narrow minded, for we think of nobody but self and this the Great Spirit teaches is wrong. We must think of those who are dependent on us. What are we going to do? I think if the Legislature Assembly will view it in the light of justice not by legislation that creates laws and overrules us, that they will give us justice.

We are here to show you that our forefathers made an honest deal, a true understanding and we want it carried out. That is all we ask, we only ask true justice and that is what my contention is today. That is the foundation of our claim with this Government or any other; the supreme power of this country. I am sure that as I heard the findings of Mr. Everett upon the questions today that it will lead him to this great finding.

Some said Mr. Everett was wandering in a swamp of delusion. I am glad he is of the stamina he is. He is going to get out of the swamp. A great axe may be over head, but he will stand by his conscience and his associates, who have the courage to stand by him, will be satisfied. I had sooner have a good name and be poor than gain the whole world. Money today causes lots of anxiety. A day will come when principle will stand before wealth.

Look at the present Peace Conference. The heathen nations came with twenty-two grievances and said we want these things rectified. They did it, they didn't say: - "You go home, you are heathen."

Can you say to us the aborigines of this country that we are heathen that we worship idols? No. We worship the Great Spirit and we trust in him yet. We know that God is very patient and he has been waiting patiently that some men might rise and show us the way out of the wilderness.

You say, Mr. Chairman, that you are looking for a lost man, a

lost race and you are going to find it. I think today is the beginning of the right path to find the lost race, the Noble Red Man. May you have success.

I bid you all good-luck, you who are here today. I hope you will flourish and I hope Mr. Chairman that you will be able to secure justice to my people. I thank you.

CHAIRMAN EVERETT:

I must say that when a man gets up and addresses an assembly in the manner we have just been addressed, that I do not feel that anybody can say I am drawing on my imagination when I declare myself to the effect that the individuals who composed the inhabitants of this country, should not be charged with being wild, untamed savages.

Let us stop and reflect that notwithstanding our color, enlightenment and education and refinement, we have by our treatment of the Indian involved the white man in a struggle for the supremacy of finance, casting the question of principle and religion to one side, destroying the admonitions of honesty and fair dealing and with the strong hand of power, taken from the Red Man what the Creator of all the Universe handed to him.

The reason for taking it was that the Indian did not use it and the excuse for not returning it is that it is too valuable.

The question, however, of its value at the beginning or its value at the present day, had nothing to do with determining the status of the Indian.

The fact that this subject has been delayed to this date is not chargeable to the Indians, as they have been encouraged by several Commission, which have been organized by the State of New York or the United States, to the effect that this problem would be settled by these several Boards. The result of each and the determination of each simple further impoverished the Indian and bewildered and befogged

the subject.

I am charged by my associate with having wandered in a swamp of delusion. If I have wandered in a swamp, it has been the swamp of dishonesty and the fog of delusion that seems to be the abiding place of men of his kind and class, more interested in holding a job under the government than in attempting to adjust a matter of this kind, applying the rules of honesty and justice. The status of the white race is up for inspection and the determination of the status of the Indian will depend largely upon the progress that humanity has made with the American citizen of this great country.

MR. A.C. PARKER:

I wonder if some of us have read the story of J. Oliver Curwood the one that treats of groups of animals in the forest during a forest fire. These animals fleeing in all directions, finally found themselves together in a pool of water surrounded on all sides by blazing logs and trees. They had been enemies, the bear, the beaver, the muskrat, and squirrel and deer and others; but in their emergency, their lives depended on peace. These animals refused to injure one another, they forgot their differences and were friends. They had arrived at a point where existence depended on sticking together in a common purpose to find a way out of the woods. If we are to believe the theories you built up, the Darwinian theory, then none of us will be offended with this implied similitude between ourselves as human beings and these animals.

We come to a point where we have passed thru the woods and come to the pool to forget our differences. One of the great troubles of our Indian people, within recent years, has been their inability to agree. This is not strange when you consider that we have different parties on our reservations, one the pagan and the other the Christian party, at one time at Oneida we had fourteen or fifteen different

Christian parties, known as the first and second Orchard party and the first and second Christian party and others.

But we are now facing one great fact and as we go back home, isn't it time to confine our energies to the solution of this big thing so close, namely the finding of the definite status of each tribe and a new starting point for better things? Sometimes we think of ourselves too much in a personal relationship. We think of ourselves as Indians. In a problem like this we should consider ourselves more than partisans or a people with differences we should consider ourselves as partners for what is for the best interest to the white race is also to the best interest of the Indian and what is for the best interest of the Indian is for the best interest of the white race. Neither can do an injustice without equal injury to himself, you cannot do wrong without doing the other wrong. We are partners in the common goal of humanity. In this problem we have a common goal and we must be partners, forgetting our differences, our disputes. We ought to be partners in progress and this discussion of status is bringing us to a point where we can make progress in this civilized world.

For the glory of this remaining bank of the Six Nations is not in our past but in today and if we cannot show progress there is scant glory for the history of our people. The question is - What are we today" Are we contributing to civilization? I do not deny but what we are to a certain extent. Here is another point, - I believe in the true glory of any nation is in its children, in the education, the health and the happiness of the children. I like to go to the reservations and see the children happy with hope in their hearts and anything that discourages that is something which is a degenerating influence and should be cast out.

If in settling and starting for a new point we can find one

to bring joy to the children's hearts, we are starting right. It is the glory of a nation to make its children happy for if these children are to be better equipped than we were, we must bequeath to them more than we received for they are to be the nation of the future and anything to the contrary is a detrimental influence. We are to start a new with a status that we can understand and which others can understand. I believe we should base our actions on the health of the child, as we are "withering leaves," but the child is the race of tomorrow.

CHIEF JESSIE LYONS (Onondaga)

I want you to understand about the Indian tribes of the Iroquois of the State of New York Indians. There is no pagan Indian in the United States of America. We all believe in the great Spirit, we all believe to be honest and true. All we believe is justice to be honest. Just because the persons claims us pagans, because it is a little different way, but we do believe in the Great Spirit. They have little dance, just what your people, held, every night you meet your girl and begin to dance and wiggle all around, but that isn't your rule and your law. I brought this matter in before United States Justice Ray. I asked that special question, the question was raised if there was any pagan Indians and I said, "No". When you lost many thousand lives, we were right there with you and also in the last war. We are here today simple to try to find out we want our rights. I wasn't going to say anything but I want to say about that pagan stuff there are no pagans in the United States, not in the whole country, where the pagans are not in American maybe in Europe.

Mr. Everett, I will say thank you again, I am glad you are trying to help to the Iroquois of the State of New York Indians. I hope that God will help you and be successful. I thank you.

MR. WALTER KENNEDY: (Seneca)

I want to say in reference to what I said yesterday that you ought to resign, I don't intend that to apply to you.

I know your intentions are all right to do what is fair. I said before, we have had quite a lot of disturbances which I think we have a right to think. But, I think we find this Commission is trying to do what is right and hope when they get thru that their report will sustain every contention we of the Six Nations have been noting.

MR. JOSEPH JOHNSON: (Oneida)

I would like to say to this Commission about one little instance which occurred in 1888 when the United States of American appointed a Commission to investigate the different reservations of New York State.

CHAIRMAN EVERETT:

Let me correct, it was the State of new York not the United States Commission of 1888.

MR. JOHNSON:

I think I mentioned this matter at Onondaga Conference, but I have looked it up more thoroughly and find that this Commission reported to the Legislature as I remember it something like this: First this Commission was something of a flying squadroon. I remember they came thru in hacks, not in automobiles, there were none in those days. I suppose the next Commission will come in aeroplanes. Well, they came in hacks, we saw them go by but did not know until two or three days after who they were. We find they allotted the individual at Oneida about four and a half acres those living in Oneida county and about seven acres to those in Madison county. Conditions could not exist as they reported them. They said when they visited Oneida that they found such improvements among the Indians that had been given the allotted land. That they were such big farmers they could

not distinguish the difference between them and the white farmers of Oneida. I beg to differ for not much farming could be done on four and a half acres of land and not only that but the lands were disposed of by loans. That is if a white man got possession which is nine points of the law that is all he was looking for that gave him the right. There were actually only one or two places where they had more than twenty-five acres, one was this Honyst place recently referred to as the case in court having about thirty-two acres and the Day place so they were the only two places where farming could be done. This Day place was quite a distance from the view of the road and unless they went out of the way, I doubt if the Commission at that time ever saw the farm. It was reported that the Commission went on the outskirts and inquired from the white neighbors who could not give justice to the Indian and they actually reported on what they learned from the white people. They had a gathering in Syracuse and invited a few of the Indians to be present and took testimonies.

The missionaries on the reservations of course, condemn the people because they don't believe just as they do, but I hate to condemn a good man even though he don't believe as I do. They got one denomination of Christians to make a report, but it did not sound right and does not sound right today.

I want to show you and tell you we are not coming here today with intentions of trying to make you believe that we are begging or that we came begging. We don't ask anything from the government but what is right, that is all we came for.

We do not blame the present generation for what your forefathers have done, nor do we blame the present generation of Indians for their forefather's transactions. But, we do blame the State or Federal Government, that has assumed the duties of the care over the Indians. They are to blame for existing conditions for not

straightening it out, but they shoved it farther away. I say they should have been straightened out long ago.

You will find as a general rule that the Indian is not a law breaker. How many Indians have you in prison today? We don't uphold that. Our children are not taught that way. I have a boy twenty-one years old and I still tell him that he can't do certain things, or I will get after him with a stick. So I say we are not law breakers.

We held our Peace Conference with Washington and agreed on disarmament. We didn't cut off an inch and call it scrapping war material; but actually threw our bow and arrow away and declared peace.

We only today ask for a fair decision and then whatever comes after, if it is citizenship, all right. I lived most of my life among the white people, but I am an Indian and will be one of the first to accept citizenship if it is going to benefit all the Indians, I will be the first to advocate citizenship among the Indians. ; We depend on the future generations. We are trying to send them to school today. The idea is to send them to the white school when we can't get it on the reservation. They are the ones who will finish off where the present generation left off. I thank you.

MR. LYMAN POWERS: (Oneida)

I do not desire to go into further details than a few points for my brothers went over the ground. I heard a gentleman mention that the Indians had no government at all. On that point, we have a form of government and so strong made it would hold water. We rely a great deal on our forefathers agreement making the first treaties a few hundred years ago and at that time it was mentioned friendship so long as the rivers flow and the sunshines and the grass grow so if our treaties were made nineteen hundred years ago, they would be made new every time the sun comes up which reminds us what our forefathers have

It is a question now between the State and Federal government who has the responsibility over us. We cannot get away from the fact that the Federal Government is still our guardian. I thank you.

MR. WILLIAM HOAG: (Seneca)

As some of my brothers have said, they compared the Chairmen with Washington. I think they are wrong as Washington was called the town destroyer, in our language.

I think all the delegates agree with our Chairman in the Status of the New York Indians, there doesn't seem to be any question, we seem to all agree.

I think it would be more than right to name our Chairman the Town Constructor or some such name, not the Town Destroyer.

I think he is fair to the Indian. He means to do right. It is the first white man I have ever heard come out and say where the Indians stand. He is right.

He is not afraid of his brothers, of his political machine of the State.

I think all we Indians can do is to wait for his report and after that is made, we shall get together and see what we can do.

I am sorry to hear there seems to be differences on this Commission, difference of opinion about the status of the Indian. We will wait what becomes of the report. As I understood the Chairman to say, he has the report about ready and intends to make it during the Session.

As you people have different treaties and court decisions, I think the ground has been well covered. I don't know that we can do anything more until after the report is made.

CHIEF CHAPMAN SCHANANDOAH: (Oneida)

When this question comes up in the Assembly, can it be arranged that some Indian speak on the subject in the House? I am ignorant on that.

CHAIRMAN EVERETT:

Usually reports of this kind are brought in, handed down and ordered printed. No individual may speak before either House on questions pertaining to matters of this kind of legislation except a member of the House.

If a report should be referred to a Committee and it should hold hearings on the question of the adoption of the report, then anybody can appear and express his opinion or views.

In a case of this kind which requires the signatures of a majority of the of the Commission, the rule is to let as many reports be introduced as there are different opinions concerning the subject. So that the report of the chairman as declared by him will be handed up and received. The question of an adverse report to mine would also be handed up and received. In other words, the Legislature is bound to receive, for what they are worth, the reports of a Committee or Commission and let the facts sustained by every report be the evidence by which the people of the State will act.

CHIEF SCHANANDOAH:

The people of the State can have no voice?

CHAIRMAN EVERETT:

Not on the floor of the House.

CHAIRMAN EVERETT:

The remarks of Judge Mosher would probably be of benefit were we discussing the matter of prosecuting the claims of the Indians: but that is foreign to the subject and does not pertain to any thing relative to the discovery of the "Status" and will therefore not be considered in this report.

This case must first be decided on the question as to whether the Indian were a Nation in possession of this country maintaining a government with whom the white man must treat either by purchase or

conquest in acquiring legal title to the territory that now comprises the United States.

As Chairman of the Commission, I maintain that the Indians were a Nation, when the white man came and that in acquiring the title of the United States we took it from somebody who had it and had a right to it. Then the next step is:- How and to whom and when did you dispose of it?

The history of the relationship, from the time of the landing of Columbus to the present day, establishes the fact, in my mind that up to the time of the Revolutionary War, purchase and conquest had been used in acquiring the title possessed by the white inhabitants of the United States; the purchase and conquest having been continued thru the different governments and nationalities supporting the several colonies.

After the Revolutionary War, the Indians were treated with and disposed of their territory thru their organized government with the government of the United States.

I, therefore, conclude that the territory set apart to the Indians of the State in the treaty of 1784, ceded to them certain parts of this State and provided that they could not dispose of the same without securing the consent of the United States and by first offering the territory that they were vested of to the United States.

I contend, as a conclusion of law, that the individuals claiming to own territory ceded to the Indians in 1784, must show that their title comes from an instrument similar to and of equal force as the treaty which ceded the land to the Indians at the above named date; namely 1784.

I do not attempt to say as to the extent of this territory, its value nor make any conclusion as to the manner by which a proceedings should be instituted to carry out my conclusions as Chairman.

I appreciate fully the position that the above declarations place me in a realize fully the criticism that has been made and am willing to defend my position against anyone who may differ with me.

I now issue a challenge relying on the decision of the courts of the world in the disposal of this question. So, nobody need say that the Chairman of this Commission is afraid to defend his position because his associates didn't all agree with him. Because I am further saying, that if the expression of one of my associates is the true reflection of his mind and ideas of conditions of affairs of government, I prefer that he should not agree with me because I would not wish to be considered as one of that class. This may seem somewhat boastful: but the decisions of the Supreme Court of the United States very much encourages me in my attitude and position.

In order to place this matter regularly before us and discover the attitude of the Delegates present, I would offer the following resolution if you agree with my conclusions:-

RESOLUTION:

It is the sense of the representatives attending this meeting and their friends who are interested that the Report of the Commission, as outlined by the Chairman, is satisfactory to them.

All in favor of that will say, - "Aye," Contrary,- "No."

The vote is recorded as unanimously in favor of the adoption of the Resolution.

The Meeting was then adjourned.

The adjournment of this Meeting together with all proceedings had heretofore and all research that has been made of the history of the North American Indians, residing in the State of New York, brings us to the conclusion of this investigation and I there-

fore respectfully submit the result of the findings:

FIRST: THAT THE INDIANS RESIDING IN THE STATE OF NEW YORK CONSUMMATED A TREATY WITH THE UNITED STATES GOVERNMENT, THRU ITS REGULAR CHANNELS, THE SAME BEING APPROVED AND RATIFIED BY GENERAL WASHINGTON, AT FORT STANWIX, IN THE STATE OF NEW YORK IN 1784, BY WHICH THEY WERE CEDED CERTAIN TERRITORY WITHIN THE BOUNDERIES OF THE SAID STATE.

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: I FURTHER FIND THAT THE PASSING OF THE TITLE OF THIS CEDED TERRITORY TO THE INDIANS OF THIS 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: I FURTHER FIND 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, UNLESS DIVESTED OF THE SAME BY AN INSTRUMENT OF EQUAL FORCE AND EFFECT AS THE SAID TREATY OF 1784.

All of which is most respectfully submitted, -

Signed:-

EDWARD A. EVERETT

Chairman of the New York State Indians Commission

