

The Act of June 19, 1936, 49 Stat. 1528, sec. 1, "consolidated and merged into one tribe hereafter to be known as the Pueblo de Jemez" the Pueblos de Jemez and de Pecos. And section 2 of the act provided that "all claims and demands of whatsoever kind or nature, now held or claimed by either of said tribes, or communities shall be, and hereby are, vested in the consolidated tribe."

According to the allegations of the petition, the defendant about November 1, 1865, granted the "Pueblo de Pecos" the 18,763.53 acres of land for the value of which this claim is made. These lands were lost to the Pecos by non-Indian settlements thereon and for the purpose of determining losses of land by the Pueblos in New Mexico, of which the Pecos was one, an act was passed by Congress on June 7, 1924, 43 Stat. 636, by which a Pueblo Lands Board was created to determine the Indian rights and losses. This Board determined the Pecos land losses to be all their granted land and recommended an award of compensation at the rate of \$1.50 per acre and the Congress by the Act of February 14, 1931, 46 Stat. 1115, 1121-2, appropriated "in settlement for damages for lands and water rights lost to the Indians of the Pueblos as recommended by the respective reports of the Pueblo Lands Board * *" the sum of \$28,145 for the Pecos, which was paid, in accordance with the 1924 act, to the Bureau of Indian Affairs to be used to purchase lands and water rights to replace those lost, or for the purpose of making permanent improvements on lands held by the Indians.

The above award was apparently intact on December 21, 1933, for on that day separate resolutions of the Jemez and Pecos pueblos (Exhibits A and B) were adopted (Senate Report No. 2175, 74th Congress, 2d Session,

Exhibit C) requesting the Congress by law to merge the two pueblos under the name of "Jemez Pueblo" and to make the Pecos award of "some \$28,000" available "for the benefit of the merged Pueblo as created by Congress." (Ex. B). The two pueblo tribes were, accordingly, concerned about two things, namely, merger and the use of the Pecos award for tribal benefit. It is plain, therefore, the Indians in adopting the resolutions did not have in mind the Pecos claim here asserted, for their claim for the loss of their granted lands had been adjudicated by the Pueblo Lands Board, created by the Act of June 7, 1924, an award made and not appealed from, and paid by the Act of 1931, aforesaid.

Nor can it be said that in passing the merger act of June 19, 1936, 49 Stat. 1528, the Congress had in mind the Pecos claim here asserted, for as stated above, it was not then in existence, and did not arise until the passage of the Indian Claims Commission Act nearly ten years later, which then created the cause of action here brought. *Otoe and Missouri v. United States*, 131 C. Cls. 593, decided May 3, 1955. It cannot be seriously contended that until the passage of the Indian Claims Commission Act either the Jemez or Pecos pueblos could have successfully maintained a claim for additional compensation for their lost lands, so the language of section 2 of the 1936 act is significant in that it is only "claims, or demands * * now held or claimed by either of said tribes or communities shall be * * vested in the consolidated tribe." So it is plain this claim was not intended to vest in the consolidated tribe. Moreover, the legislative history of the act, which is contained in the Senate report cited above and the House Report No. 2447, 74th Congress, referred to and made part of the Senate report (Ex. C) shows

