

no objection thereto was entered, and having considered the entire record in the case, the Commission finds:

1. The final judgment in Docket Nos. 161, 222 and 224 was entered April 5, 1965, awarding to the Yakima Tribe of the Yakima Reservation and the Confederated Tribes of the Colville Reservation the sum of \$3,446,700.00 for the benefit of the Yakima Nation as it was created by the Yakima Treaty of June 9, 1855. The amount of the judgment has been appropriated by the Act of April 30, 1965 (P.L. 89-16) and is now held in the United States Treasury.

2. The attorneys' contract with the Confederated Tribes of the Colville Reservation was entered into November 28, 1949 and approved by the Commissioner of Indian Affairs under date of April 13, 1951, and, as subsequently amended and extended, is currently in effect. The attorneys who are now parties to said contract, as amended, are Lyle Keith and Patrick H. Winston of Spokane, Washington and I. S. Weissbrodt, Abe W. Weissbrodt and Morton Liftin of Washington, D. C. Also, attorneys David Cobb and James E. Curry of Washington, D. C., were formerly parties to said contract. The said attorneys' contract, by its terms, fixes the amount of the attorneys' fee. Thus, paragraph 6 of said contract stipulates that the attorneys shall receive as compensation a fee of ten (10) per cent of the recovery. It is further provided in the contract that there shall be deducted from the fee so calculated the amount of annual retainers paid to the attorneys under the contract.

3. The original attorney contract with the Yakima Tribe of the Yakima Reservation was entered into with attorney Paul Niebell of Washington, D.C., on July 20, 1948 and was approved on February 14, 1949 for a ten year period.

Subsequently, the same parties entered into a contract dated December 10, 1958 which was approved on February 16, 1959 for a period of ten years, beginning on February 14, 1959. This contract provides for an attorney fee to be fixed in an amount not in excess of 10% of the recovery.

4. From the inception of the aforesaid Attorneys' Contract with the Confederated Tribes of the Colville Reservation to March 1, 1960, retainer fees had been paid to the attorneys in the total amount of \$30,000.00. Said \$30,000.00 was deducted from the attorneys' fee awarded to the attorneys by order entered March 1, 1961, in connection with a recovery made in Docket No. 181. Subsequently, between the period March 1, 1960 to July 12, 1961 a retainer fee in the amount of \$3,000.00 was paid to the attorneys under said Attorneys' Contract, and said \$3,000.00 was deducted from the attorneys' fee awarded to the attorneys in Docket No. 180-A pursuant to order entered by the Commission on July 12, 1961. Since July 12, 1961 additional retainer fees have been paid to the attorneys in the total amount of \$12,000.00, which amount has not yet been deducted from any recovery.

5. The claims in Docket Nos. 161, 222, and 224 concerned lands in the State of Washington which had been exclusively used and occupied by certain tribes and bands which were confederated under the said Treaty of June 9, 1855. Eleven land-owning tribal groups, each of which held Indian title to a separate area were identified as parties to the treaty. Accordingly, the prosecution of the claims required the investigation and presentation of evidence to establish the separate extent and boundaries of the aboriginal lands of each of the eleven separate tribal groups.

As the record before the Commission shows, this involved an extraordinary burden of work and effort on the part of the attorneys far beyond that involved in the usual Indian case which pertains to the lands and boundaries of one tribe. The evidence as to the extent and boundaries of Indian title lands of the eleven tribal groups was presented at four trials, the first of which was held in October, 1957 and pertained to the lands of the Columbia, Chelan, Entiat and Wenatchee tribes; the second was held in December, 1960 and pertained to the lands of the Palus; the third was held in June, 1961 and the fourth in August 1961, both of which pertained to the lands of the remaining six of the identified tribal groups, namely the Kittitas, Yakima, Klikitat, Wishram, Skeen and Wanapam. By its decision on July 29, 1963, the Commission found the areas exclusively used and occupied by each of the eleven tribes.

6. The acreage of the Indian title lands of each of the eleven groups was calculated by planimeter, and ranged from 72,000 acres for the tribe owning the smallest tract, to 1,678,410 acres for the tribe owning the largest tract. The issues pertaining to the value of the tracts and the issues relating to payments under the treaty and offsets against value were not tried but rather were the subjects of a compromise settlement which was approved by the Commission by judgment entered on April 5, 1965. The value of the tracts, based on an average value of 50 cents an acre as provided in the compromise settlement, ranged from \$36,000 for the smallest tract, to \$839,205 for the largest tract. The total area of all tracts of the eleven tribes was 8,176,000 acres and, as set forth in the compromise settlement, the aggregate value of all tracts was \$4,088,000. After deduction of the stipulated amount of payments under the Treaty of June 9, 1855 and offsets,

the net balance was \$3,446,700 which was the amount of the final judgment.

7. The application for attorney fees is made by Paul Niebell, attorney of record for the Yakima Tribe of the Yakima Reservation, petitioner in Docket No. 161, and I. S. Weissbrodt, attorney of record for the Confederated Tribes of the Colville Reservation, the petitioner in Docket Nos. 222 and 224 and the intervenor in Docket No. 161. The application is made on behalf of all contract attorneys having an interest in the litigation in the aforesaid three Dockets, for all attorneys' services rendered therein, all the contract attorneys having reached among themselves an amicable understanding as to the division of the fee. An award of attorneys' fee is requested in the amount of \$344,670, being ten (10) percent of the aggregate recovery, subject to the deduction of \$12,000 in retainer fees heretofore paid under the approved attorneys' contract with the Confederated Tribes of the Colville Reservation. A statement has been filed with the Commission signed by each of the contract attorneys and appropriately notarized, whereby each of them joins in said request for allowance of attorneys' fee and consents and requests that the fee be paid to Paul Niebell, the attorney of record in Docket No. 161, and I. S. Weissbrodt, the attorney of record in Docket Nos. 222 and 224.

IT IS THEREFORE ORDERED AND ADJUDGED that from the appropriation of \$3,446,700, made by Congress to satisfy the award of this Commission in like amount entered in this matter April 5, 1965, there shall be paid to PAUL NIEBELL and I. S. WEISSBRODT the sum of \$332,670, as the attorneys' fee owing as a result of this litigation.

Dated at Washington, D.C., this 9th day of July, 1965.

/s/ Arthur V. Watkins
Chief Commissioner

/s/ T. Harold Scott
Associate Commissioner

/s/ Wm. M. Holt
Associate Commissioner