

BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION,)	
)	
Plaintiff,)	
)	Docket No. 272
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

INTERLOCUTORY ORDER

Upon the findings of fact and opinion this day filed herein and which are hereby made a part of this order, the Commission concludes as a matter of law that:

- a. Plaintiff is a tribe, band or other identifiable group of American Indians entitled to maintain an action under Section 2 of the Indian Claims Commission Act;
- b. Plaintiff's claim based upon fair and honorable dealings and its claim which would result if its treaty with the United States were revised are not barred by res judicata or collateral estoppel nor by the waiver in the Treaty of August 7, 1856, 11 Stat. 699.
- c. The provision for selection of individual reserves under the circumstances of the 1832 treaty constituted unconscionable consideration or, alternatively, the course of dealings by which the Creek Nation was deprived of its lands constituted a lack of fair and honorable dealings. Plaintiff may recover any disparity between the fair market value of the entire 5,200,000 acre tract and the monetary compensation actually received under the treaty. This claim for compensation for 5,200,000 acres ceded is a tribal claim under Section 2, Clauses (3) and (5) of the Indian Claims Commission Act.

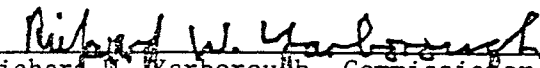
- d. The valuation date for the 5,200,000 acres ceded is April 4, 1832.

IT IS THEREFORE ORDERED THAT this claim proceed to a determination of the fair market value of the 5,200,000 acres as of April 4, 1832, the consideration received for land ceded, whether the consideration received was unconscionable, and any other relevant matters.

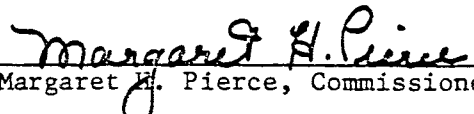
Dated at Washington, D. C., this 8th day of December 1971.



John T. Vance, Commissioner



Richard W. Warborough, Commissioner



Margaret H. Pierce, Commissioner



Brantley Blue, Commissioner