

INTERIOR NOMINATIONS

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HEARING BEFORE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETIETH CONGRESS

FIRST SESSION

ON

THE NOMINATIONS OF JOHN THOMAS VANCE, RICHARD
W. YARBOROUGH, AND JEROME K. KUYKENDALL TO BE
COMMISSIONERS ON THE INDIAN CLAIMS COMMISSION

DECEMBER 14, 1967

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NOMINATIONS OF JOHN THOMAS VANCE, RICHARD W. YARBOROUGH, AND JEROME K. KUYKENDALL TO BE COMMISSIONERS ON THE INDIAN CLAIMS COMMISSION

THURSDAY, DECEMBER 14, 1967

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, pursuant to call, at 10:10 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman of the committee) presiding.

Present: Senators Henry M. Jackson, of Washington; Clinton P. Anderson, of New Mexico; Alan Bible, of Nevada; Frank E. Moss, of Utah; Quentin N. Burdick, of North Dakota; Lee Metcalf, of Montana; Len B. Jordan, of Idaho; and Mark O. Hatfield, of Oregon.

Also present: Senator Ralph Yarborough, of Texas.

Staff members present: Jerry T. Verkler, staff director; Stewart French, chief counsel; James Gamble, professional staff member; William Van Ness, special assistant; and E. Lewis Reid, minority counsel.

The CHAIRMAN. We will now turn to the nominations by President Johnson of John Thomas Vance, Richard W. Yarborough, and Jerome K. Kuykendall to be Commissioners on the Indian Claims Commission.

Earlier this year, Congress enacted Public Law 90-9, which extends the life of the Indian Claims Commission from April 10, 1967, to April 10, 1972. The law also authorizes an increase in the number of Commissioners from three to five, and makes specific provision for the preparation and administration of a trial calendar to speed up the consideration of Indian claims that have been pending since 1951.

In its report on S. 307, the bill I introduced, which became Public Law 90-9, this committee expressed deep concern that of the 583 dockets pending in the Commission, only 236 had been adjudicated, with 347 only partially completed, and 42 dockets on which no action had been taken at all.

Our objective is to bring about the prompt adjudication of these longstanding claims, and it is believed the additional time now afforded the Commission by the law, together with the increased personnel, will permit this job to be completed in the time allotted.

There is before each member of the committee a biographical sketch of the three nominees.

(The documents referred to follow:)

INTERIOR NOMINATIONS

JOHN THOMAS VANCE

Birth Date: October 12, 1921, Lexington, Kentucky.

Marital Status: Married; 4 children.

Education: A.B. in History and Political Science, University of Montana, 1947; LL.B. George Washington University, 1950.

Professional: Following graduation from Law School, passed the Montana Bar Examination. Practiced law in Missoula, Montana with C. W. Leaphart, Jr. and Bruce R. Toole. April 1954 appointed Deputy County Attorney, Missoula County, Montana. Late in 1954 moved to Helena, Montana, appointed counsel to Montana Trade Commission. The Montana Trade Commission is charged with administering the Unfair Practices Act, an antimonopoly statute. Resigned 1963. 1964 appointed City Attorney of Helena, Montana. December 1966 granted a one year leave of absence to accept appointment as visiting associate professor of law at School of Law, University of North Dakota, at Grand Forks.

Elective Office: In 1952, Elected Commissioner of Public Safety in Missoula, Montana, and as Commissioner was in charge of the City's departments involved with public health and safety, including the Police and Fire Departments.

Military: Enlisted in the Army in August, 1942, and trained in the Infantry at Camp Wolters, Texas. Served in the 140th Infantry Regiment at San Diego, California; ASTP at Oregon State College, Corvallis, Oregon; Battery "C" the 756th Field Artillery, and served with it in New Guinea and Luzon from July, 1944, to January, 1946, as a Scout Corporal. Received an Honorable Discharge in January, 1944.

Errata: As a pilot first soloed in Missoula, Montana, in 1951 and has since logged over 1200 hours. 1959-1963 Commander of the Montana Wing, Civil Air Patrol. 1963-1966 Commander, Rocky Mountain Region, Civil Air Patrol. (Montana, Idaho, Utah, Wyoming, and Colorado.) Advisory Council to the Chairman of the National Board of the Civil Air Patrol. 1963 selected as Pilot of the Year by the Montana Pilots Association.

Memberships: American Bar Association, American Judicature Society, Montana Bar Association, American Legion, Veterans of Foreign Wars, Elks, Sigma Chi, Phi Delta Phi, and Presbyterian.

RICHARD W. YARBOROUGH

Residence: 5140 North 37th Street, Arlington, Virginia.

Born October 20, 1931, Austin, Texas.

Married to Ann McJimsey on March 17, 1956.

Children: Clare, age 10, Elizabeth, age 1 $\frac{3}{4}$.

Education: Austin High School, Austin, Texas, graduated 1949. University of Texas, B.A. 1953 (with honors). University of Texas, LL.B. 1955. Member: Chancellors (legal honorary) Phi Delta Phi (legal), Phi Eta Sigma (honorary), Kappa Alpha Order (social). Comment Editor, *Texas Law Review*, 1954-1955.

Admitted to practice before Supreme Court of Texas, 1955.

Military Service: U.S. Army, 1955-57; principal station, Counter Intelligence Corps agent, Germany; released from active duty as E-4.

Private practice of law, Austin, Texas, 1957-58; general civil practice.

Legislative Assistant to Senator Ralph W. Yarborough, 1958 to present (staff responsibility for the Senator's work on legislation, also including service as administrative assistant and counsel to a subcommittee).

Member: State Bar of Texas, Federal Bar Association U.S. Supreme Court Bar.

JEROME K. KUYKENDALL

Mr. Kuykendall was born on December 8, 1907, in Pomeroy, Washington, He graduated in 1932 with an LL.B from the University of Washington. He was admitted to the Washington bar in 1932.

From 1932 to 1941, he practiced law in Seattle. He was an Assistant Attorney General for the State of Washington from 1941 to 1944, and then served from 1944 to 1946 as a Lieutenant in the U.S. Naval Reserve. From 1946 to 1947 he was again an Assistant Attorney General for the State of Washington.

In 1947, Mr. Kuykendall was Counsel to the Judiciary Committee of the Senate of the State of Washington. He was a partner in the law firm of Pebbles and

Kuykendall in Olympia, Washington, from 1947 to 1951. From 1951 to 1953 he was Chairman of the Public Service Commission of the State of Washington.

In 1953, President Eisenhower appointed Mr. Kuykendall as Chairman of the Federal Power Commission and he served in that capacity until 1961. From 1962 until September of this year he has been a partner in the law firm of Shanley, Fisher, and Kuykendall, Washington, D.C., and has continued in the private practice of law in Washington, D.C., since September. He is a member of the bar of the Supreme Court of the United States in good standing, and is a member of the American, Federal, Washington State, and District of Columbia Bar Associations.

He is married to the former Helen Dickinson and they reside at 2700 North Oakland Street in Arlington, Virginia.

The CHAIRMAN. The Chair would like to suggest that the three nominees come forward and be seated.

First of all, the Chair would like to call on Senator Ralph Yarborough for any comments that he might wish to make.

STATEMENT OF HON. RALPH W. YARBOROUGH, A U.S. SENATOR FROM THE STATE OF TEXAS

Senator YARBOROUGH. Mr. Chairman and members of the committee, one of the nominees is a constituent of mine from Austin, Tex. I want to introduce him to the committee. I think you have his biographical sketch there, Richard Yarborough.

He was graduated from the University of Texas Law School in 1955, and went through basic training in the Army and then was placed in the Counterintelligence Corps and, after training in the Counterintelligence Corps at Fort Holabird, Md., special language course, was stationed as an agent in Germany in the Counterintelligence Corps.

He served out his time there and went back to the private practice of law in Austin, Tex., from 1957 to 1958. In 1958, I appointed him as legislative assistant on my staff. He served there as administrative assistant part of the time, was counsel for the Veterans' Subcommittee of which I was chairman while we were steering through the Korean war GI bill, in which he played a part.

He has been here in Washington since 1958 in various capacities in my office or as counsel for the Veterans' Subcommittee. He is a member of the Federal Bar Association.

The CHAIRMAN. I take it that you are claiming him as more than just a constituent.

Senator YARBOROUGH. I have a slightly closer relationship, Mr. Chairman.

The CHAIRMAN. The Chair has a letter from Senator Tower, which I would like to read at this time, dated December 14:

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR MR. CHAIRMAN: I certainly regret not being able to appear personally before you today in support of the nomination of Richard W. Yarborough to the Indian Claims Commission.

Presidential appointments to high administrative positions should of course be made from the ranks of those with the necessary qualifications and capabilities to effectively carry out the duties and requirements of such positions. There can be no doubt that Dick Yarborough has the prerequisites and bearing for the job to which he has been named.

He has an exceptionally fine educational background, and he has had a number of years of sound experience in government.

Certainly of far more importance, and that which is not discernible through brief biographical information, is this young man's fine character and reputation. His highly efficient manner, his integrity, the extremely high respect which his associates hold for him, can far better than I express to you his qualifications to be a member of the Commission. I strongly urge your favorable consideration of this appointment.

Sincerely yours,

(S) John Tower
JOHN G. TOWER.

The CHAIRMAN. Senator Metcalf.

Senator METCALF. Mr. Chairman, I am very pleased on behalf of my very distinguished colleague and majority leader Senator Mansfield and myself to be able to present to the committee a constituent of ours, Mr. John Vance, from my hometown of Helena, Mont., who has been nominated to the Indian Claims Commission by President Johnson.

Following graduation from the University of Montana School of Law, Mr. Vance engaged in private practice in Missoula and served as deputy county attorney there. He has also served as our city attorney in Helena.

For 9 years he was counsel for the Montana Trade Commission, which is charged with administering the Unfair Practices Act and antimonopoly statute.

I would mention here that during this period Mr. Vance worked with the House Small Business Subcommittee, then chaired by Congressman James Roosevelt, collaborating in the studies and hearings on retail gasoline prices that have had a national impact. Senator Burdick's State enticed Mr. Vance to cross the line about a year ago to accept an appointment as visiting associate professor on the faculty of the University of North Dakota School of Law.

We Montanans were pleased to share the talents of John Vance with our neighboring State of North Dakota.

Senator Mansfield and I are proud to offer his services to a national constituency. We know that he will be an outstanding Commissioner and unstintingly give his time and wisdom toward judicious and timely settlement of these important claims before the Commission.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Metcalf.

Does any other Senator wish to make an opening comment?

I will call on first Mr. Vance for a brief statement of his background. Then I would like to elicit from you, Mr. Vance, your understanding of your responsibilities in the event your nomination is approved.

STATEMENT OF JOHN THOMAS VANCE, NOMINEE FOR COMMISSIONER OF INDIAN CLAIMS COMMISSION

Mr. VANCE. Mr. Chairman and members of the committee, I suppose anyone who practices law in Montana for 17 years also lays claim to being a country lawyer and that is what I am.

I think that certainly public service is a very high calling for anyone but it is the highest calling, in my opinion, that a lawyer can attain. I have practiced law in both Missoula, Mont., which is a small town of about 45,000 people now, and for the last 14 years have been in Helena, Mont., where I am city attorney.

I particularly welcome an opportunity to serve the Federal Government in a position as Commissioner on the Indian Claims Commission.

I am interested in continuing my law practice at some later date but I would welcome this challenge at this time.

Senator Jackson, my understanding of the task that the Indian Claims Commission has had set by the Congress is to determine specifically whether or not the Government of the United States has treated the various Indian tribes in a fair and honorable manner. The cutoff date on the claims to be filed was some 16 years ago, and to date there are over 300 claims which still have to be processed.

I assume that the reason for the addition of the three Commissioners at this time is to expedite the handling of those claims. I know of no reason why the claims cannot be handled and processed within the time period provided by the Congress.

I am entirely openminded on the subject and bring no expertise on Indian problems as such, but I believe that I am qualified for the position by my background and in the event that this committee recommends my nomination, and the Senate confirms it, I will consider it an honor to serve.

I shall be happy to answer any questions.

The CHAIRMAN. Have you had a chance to read the report accompanying the bill that we passed extending the Commission?

Mr. VANCE. Yes, sir; I have.

The CHAIRMAN. I think you put your finger on the problem. The No. 1 priority is to expedite action on these claims.

I happen to have been the author of the original Indian Claims Commission Act. I must say that we assured the Congress, long ago, that it would be completed within 10 years. That was 21 years ago.

Mr. VANCE. Before I started law school.

The CHAIRMAN. Here we are with a docket so long that it is pathetic. I must say that the committee will follow very closely the work of the Commission. This job must be finished by 1972 or there is going to be trouble. I know I speak for every member of the committee. If you read the report, you will get the mood.

Mr. VANCE. I read it with some care, Senator.

The CHAIRMAN. We want justice done the Indians and I must say that the long delay in settling these claims is incredible. Your No. 1 job is to clean up that docket and do it in a judicious way so that justice is meted out to the Indians. I think a grave injustice has been rendered to the Indians by this long delay.

This is a very poor example of how to settle claims for people who have had grievances for all these years. I was pleased to hear you state that the matter of expedition is very important. I want to assure you that every member of this committee feels very strongly and very deeply about this, Mr. Vance. We expect you gentlemen to expedite these claims. We are going to be watching you, I assure you, because we are not going to put up with these delays any longer.

If you have problems, we want you to come up and talk to us about them. We will help in any way we can to clean up the Commission calendar. But we do not intend to extend the time of the Commission again, nor do we expect such a request from the Commission.

I appreciate having your comments.

The Chair will state, too, that each of the nominees has filed financial statements and we will discuss them in executive session.

Senator Anderson.

Senator ANDERSON. I can only echo what Senator Jackson has said. We are all discouraged with the progress so far.

In 1946 I had responsibility in the Department of Agriculture. Charlie Brannan, Assistant Secretary, was interested in the job of Indian Claims Commissioner. I talked him out of it. The Commission would be in existence only for a limited period, I pointed out, but the Department of Agriculture would be here a long time. I didn't know there was what has amounted to life tenure down at the Commission. Promise after promise has been made but very little has come of them. Senator Watkins, who is a very fine person in every way, promised he would do the best he could but he could not get anything jarred loose. All I want to say is that I hope you surprise us.

The CHAIRMAN. Senator Jordan.

Senator JORDAN. Thank you, Mr. Chairman. I don't have any questions, especially.

I would only like to say that we have been very patient, I think, back through the years, with the work of this Commission and we haven't been very well pleased with the results. I wonder if with the addition of new blood on the team, we can expect some added activity, some closing out of these cases, so that we can look forward to an eventual elimination of this work.

Mr. Vance, do you have any ideas about expediting this work? Do you calculate that this is a continuing kind of job that will go on forever, or do you look forward to closing out the job, yourself?

Mr. VANCE. Senator Jordan, I think that the committee, in drafting this legislation, certainly determined that it is possible to do this job and I feel we can.

I, personally, am prepared to attack it with all the vigor at my command. I realize full well that it is impossible to effect, for want of a better term, the rehabilitation of the Indian population of the United States until these claims are disposed of. I know of no reason why we cannot handle this matter with dispatch and within the time set by the Senate.

Senator JORDAN. I look forward to that end being accomplished. I do hope it will come to pass.

The CHAIRMAN. The Chair would like to suggest that maybe we should call on the other two nominees and then we can interrogate all three at the same time.

Mr. Yarborough, we will be delighted to have any comment you wish to make and then I will call on Mr. Kuykendall.

STATEMENT OF RICHARD W. YARBOROUGH, NOMINEE FOR COMMISSIONER OF INDIAN CLAIMS COMMISSION

Mr. YARBOROUGH. Mr. Chairman, I think my biography has been adequately summarized.

I am very pleased with the confidence that the President has placed in me and I do intend to bring some determination to justify that confidence to the work on the Commission.

I can only second Mr. Vance's comments on my desire to attack the docket of the Commission with a view to working through the cases there as rapidly as possible and meeting the congressional deadlines.

It seems to me that it would be a salutary procedure for us to work closely with this and other committees of Congress so that on a periodic basis you will know exactly what problems we may be facing and what difficulties we may be having if we are not meeting a reasonable schedule. I would welcome such a procedure.

The CHAIRMAN. Have you read the report that accompanied S. 307? Mr. YARBOROUGH. Yes, sir.

The CHAIRMAN. You understand fully the clear intent of this committee in reporting out that extension?

Mr. YARBOROUGH. Yes, sir; the committee's concern is quite evident. I share their feeling that there should be some more visible evidence of acceleration of this docket.

The CHAIRMAN. We expect this work to be cleaned up by 1972 and the Commission to go out of business by 1972. We will be following the work very closely. Do you give assurance that you will do everything you can to expedite it?

Mr. YARBOROUGH. That would be my hope, sir.

The CHAIRMAN. The third nominee is Mr. Jerome Kuykendall, of Virginia, formerly of the State of Washington.

Mr. Kuykendall served as Chairman of the Federal Public Power Commission, and previously had served as assistant attorney general for my State of Washington. He is a very able lawyer. While we have had some differences in the past, I am sure that he will discharge his duties and responsibilities in connection with this assignment fairly and adequately.

Mr. Kuykendall, do you wish to make a statement?

STATEMENT OF JEROME K. KUYKENDALL, NOMINEE FOR COMMISSIONER OF INDIAN CLAIMS COMMISSION

Mr. KUYKENDALL. Mr. Chairman, I will certainly say I will make every effort to discharge the duties faithfully and fairly. I believe I am capable of doing so. I think this work, while it needs to be hurried up, will be very enjoyable as well as providing the satisfaction of cleaning it up.

As you mentioned, I was Chairman of the Federal Power Commission and I had many frustrations there with administrative delays. I know in many cases the delays were intentional on the part of some parties, who thought they would thereby gain an advantage.

But we don't have anywhere near that kind of problem here. We have only two parties, the U.S. Government and the Indian tribes.

We will have to be careful to give the Indians fair warning of everything, since some of them don't even have lawyers, and there may be problems getting them to move.

I gather the Department of Justice is ready to move on a great number of cases.

I will just tell the committee that if I am approved by the committee and confirmed, I will do everything in my power to expedite this work in a fair and just and fast way.

The CHAIRMAN. The Chair would like to ask a general question.

Each of you submitted financial statements. Do each of you feel that you are in a position to undertake this assignment without any possible conflict of interest regarding any matter that you know of?

Mr. YARBOROUGH. Yes, sir.

Mr. KUYKENDALL. I have no conflict of interest that I can think of.

The CHAIRMAN. Mr. Vance?

Mr. VANCE. I have no conflict of interest.

The CHAIRMAN. Senator Anderson.

Senator ANDERSON. Patently it is to the advantage of some claims attorneys for the Commission to go on for years and years. Continuances of hearings and other action is asked for time after time and they always seem to be granted. I am just hoping you are going to resolve this problem. I hope you will say, "I will get this job done."

Do you think, Mr. Yarborough, you can do it within the time that the law says?

Mr. YARBOROUGH. I have every intention of attacking the problem with a view of finishing by 1972.

I do not know what all the problems consist of before the Commission and I am in no position to say that the job can be done by 1972, but I intend to give every effort I can to meet the congressional deadline.

The CHAIRMAN. The law provides that they finish in that time. With that mandate, you ought to be able to get it done.

Mr. YARBOROUGH. That is exactly correct.

Senator ANDERSON. I hope so.

Senator Jackson says he sponsored this in 1946. He made some promises to the people. But here we are still. Time after time the lawyers have been asking for, and receiving, extensions.

The CHAIRMAN. Senator Bible.

Senator BIBLE. I think it is rather clear, from all those who have spoken, that they hope this job is completed on schedule. I certainly share that.

I would suggest to you men, if you are confirmed, that you furnish some type of progress report to the staff people. You have 300 cases. It does not seem to be an undue burden for five men tried and true to hear these cases and dispose of them.

I would suggest that the staff, Mr. Chairman, work out some type of questionnaire as to the status of these cases.

I have talked very effectively with Senator Watkins. He is a man of great integrity and ability and he ended up with a lot of frustrations in not completing the work of the Indian Claims Commission as he expected. Serving, as I do, on the Interior Appropriations Committee, he talked to me frequently about inadequate staff. He was inclined to lay the blame in part on the lack of adequate staffing. We tried as appropriations members to give him the tools to work with to get the job done. I am frank to recognize that.

I do not expect you to have any solution to it now, but if there are shortcomings in meeting your time schedule you ought to get together, the five of you, and say exactly what you need to meet the commitment which I think you have made to the country and which you have made to us.

I would suggest to our staffman, Mr. Gamble, that he work out some kind of questionnaire.

I have never practiced before the Commission but as a lawyer we have problems arising in our State which are before your Commission and I am repeatedly told that the great blame lies on the lawyers and the Commissioners who grant the continuances repeatedly. That certainly has to be tightened up.

I am very happy to see that you have a country lawyer here. He may get the work done a lot faster than a city lawyer. I think perhaps we can get all working together, and get this job done. That purpose is inherent in everything we have said here.

I will simply pursue one question of the chairman one step further. I would ask each of you, individually or collectively, have you ever represented anyone in front of the Indian Claims Commission?

Mr. VANCE. No, sir; I have not, Senator Bible. I think the new law, as amended, provides on the matter of continuances that there shall be none except for one continuance of up to 6 months unless the claim is in the process of being negotiated.

Senator BIBLE. I am sure we will be glad to tighten that up. Lawyers are a strange group of people. I say that as a lawyer. They can always figure out ways to prolong the final judgment. I would assume that you men are trained in law and you have vast experience in law and you know how to hold their feet to the fire; that is what I am trying to say.

In response to my question, you say you have never represented anyone in front of the Indian Claims Commission. Have you been a member of a partnership that has represented anyone in front of the Indian Claims Commission?

Mr. VANCE. No, sir; I have not participated in any way in any piece of legislation that had anything to do with the Indian Claims Commission. As with all Montana lawyers, I have both prosecuted and defended Indians.

Senator BIBLE. I don't know that the fact that you have represented them before the Indian Claims Commission would necessarily disqualify you. It might disqualify you in one particular case.

Mr. Kuykendall.

Mr. KUYKENDALL. My response is the same as Mr. Vance's. I have never represented anyone, never appeared before the Commission in any fashion, nor have I been a partner of any law firm that has done so.

Senator BIBLE. Mr. Yarborough.

Mr. YARBOROUGH. I have had no practice before the Indian Claims Commission.

Senator BIBLE. Either individually or as a member of a partnership?

Mr. YARBOROUGH. No.

Senator BIBLE. I am satisfied.

The CHAIRMAN. Thank you, Senator Bible.

Those are good questions.

The Chair would like to state that the comment with reference to reports from the Commission is one that we do intend to insist upon. As a matter of fact, this was discussed when we had the extension bill before the committee. In the conference report, we stated, and I quote: "In the meantime, the House and Senate conferees on Interior and Insular Affairs will exert themselves to see that this does not happen," referring to the delay, "by calling periodically for progress reports from the Commission."

So, you are all on notice that you will be reporting to the committee as to what progress is being made to clean up the calendar and get the cases to judgment.

I think the point Senator Bible made is an excellent one and we want the Commissioners, when you are confirmed, to have that clear understanding.

Senator Moss.

Senator Moss. Thank you, Mr. Chairman.

I am satisfied with the personal qualifications of all three nominees. It appears to me that they have the education, background, and ability to do the job.

There is no need for my reiterating the expressions that have been made of the great feeling of urgency of committee members concerning the conclusion of this work.

I think the legislation by which the Commission is extended and the the increase in members and the report which the chairman read expresses thoroughly the opinion of all members of this committee.

I have no questions at this time.

The CHAIRMAN. Senator Burdick.

Senator BURDICK. First, I want to say I am very sorry to see Mr. Vance leaving the University of North Dakota Law School. I am satisfied with his qualifications.

I have to smile when my colleagues say how dissatisfied they are with the 21 years of inactivity on the part of the Commission. I was one who wanted to end this Commission. That is how I felt about it. I wanted to transfer it to the Claims Court or district court. Just move the cases over to the courts because I was thoroughly dissatisfied with 21 years of inactivity, comparative inactivity.

So, I do not intend to vote for renewal of this Commission again. That is how I feel about it. I think we owe this to the Indians. Some of those alive in 1946 will never see any money and if we don't move fast, many more will not see their claims acted upon.

It is not fair, I suppose, to lecture, so to speak, to the new members. This is based on what the old members did.

I wish you good luck. I hope you say "No" once in a while to a request for continuance from either side.

The CHAIRMAN. Mr. Metcalf.

Senator METCALF. Mr. Chairman, I have nothing to add.

I am delighted that Mr. Vance has made such a fine appearance here. I know he and the other members are impressed with the admonition that we are concerned about justice to the Indians and speedy solutions of these cases.

I am pleased with the qualifications of every member.

The CHAIRMAN. Thank you, Senator Metcalf.

Thank you, gentlemen, for your responses and statements here this morning.

Senator Monroney has sent over a letter from the Ponca Tribal Counsel of Ponca City, Okla., for inclusion in the hearing record. That letter and enclosure will be included at this point.

(The letter referred to follows:)

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
December 6, 1967.

HON. HENRY M. JACKSON,
*Chairman, Interior and Insular Affairs Committee,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: It is my understanding that your committee has received President Johnson's nomination of John T. Vance, Richard W. Yarborough, and Jerome K. Kuykendall to be Commissioners of the Indian Claims Commission.

I think the attached correspondence from the Ponca Tribal Council will outline the concern arising from the Commission's inability to act on pending cases due to the existing vacancies. After you have had a chance to review this matter, I am sure you will feel, as I do, that prompt action on these nominations would be of great help to all those who have cases before the Commission.

Therefore, I am writing to request that you give consideration to placing these nominations on your committee's schedule at the earliest possible time.

With kindest regards and best wishes, I am,

Sincerely,

A. S. MIKE MONRONEY.

PONCA TRIBAL COUNCIL,
Ponca City, Okla., November 21, 1967.

HON. MIKE MONRONEY,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR MONRONEY: The enclosed copy of a letter we received recently from our attorney is self-explanatory.

The fact that none of the vacancies in the Commission have been filled creates a sense of urgency and concern for those of us who still have cases pending with the Commission.

We realize the President has many problems to contend with but the fact remains as you know, that the Commission has a limited life span set by Congress in which to complete its cases.

Therefore, we urge that you bring this matter to the attention of the President as soon as possible so that he can take the necessary action in order to have the vacancies filled.

Sincerely,

THURMAN RHODD, *Chairman.*
E. R. PENSONEAU, *Secretary.*
JOHN WILLIAMS, *Vice Chairman.*
MITCHELL ROY, *Member.*
SYLVESTER KEMBLE, *Member.*
MARVIN LITTLEHOE, *Member.*

SONNENSCHN LEVINSON CARLIN NATH & ROSENTHAL,
Chicago, Ill., November 9, 1967.

MR. EDWARD R. PENSONEAU,
*Secretary-Treasurer, Ponca Tribal Council,
Ponca City, Okla.*

DEAR MR. PENSONEAU: Thank you for your letter of November 2.

There have been no recent developments since we filed our findings and brief in Docket 322 before the Indian Claims Commission and filed our reply brief in Docket 323 before the Court of Claims.

As to the first case, the Government has obtained leave to November 24 to file its brief and proposed findings. As to the second case, we are waiting to hear from the Court of Claims to schedule oral arguments.

As you know, the Indian Claims Commission is not able to make decisions at the present time. The number of commissioners has been increased to five so that three are required for a quorum. However, Chief Commissioner Watkins resigned as of October 1 and none of the vacancies has been filled. Until the President appoints a commission, Commissioners Holt and Scott must carry on without making more than routine decisions.

With kind regards to all,

Sincerely,

EDWIN A. ROTHSCHILD.

The CHAIRMAN. I also have a letter from Lloyd Dietrich in support of Mr. Yarborough's appointment. Without objection, that letter will be printed at this point.

(The letter referred to follows:)

DECEMBER 8, 1967.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Senate Office Building, Washington, D.C.

DEAR SENATOR JACKSON: I am writing in support of the nomination of Mr. Richard W. Yarborough, as a Commissioner on the Indian Claims Commission.

I have been personally acquainted with Mr. Yarborough during the past six years and know him to be a person of the highest integrity. Of course the task assigned to him by President Johnson requires many attributes and it is my firm belief that he possesses them in ample quantity. Certainly, he will bring to the Commission an abundance of legal scholarship, a clarity of expression, a keen and perceptive mind, and an energetic will; and, perhaps of equal importance where Commissioners work cooperatively and collectively—a delightful sense of humor.

I strongly urge that Mr. Yarborough's appointment receive prompt consideration and confirmation.

Very truly yours,

LLOYD E. DIETRICH.

The CHAIRMAN. The committee will now retire into the library and go into executive session. If you will stand by, each individually, we will have you in to go over the financial statement which you submitted. If you will stand by, we will call you.

(Whereupon, at 10:40 a.m., the committee proceeded to executive session.)





