June 19, 1895.

Honorable John Collier,
Commissioner of Indian Affairs,
Department of the Interior,
Washington, D.C.

Dear Sir:

IN RE: THE BLACKFEET, BLOOD, PIEGAN, AND GROS VENTRE NATIONS OR TRIBES OF INDIANS, RESIDING UPON THE BLACKFEET AND FORT BELKNAP RESERVATIONS IN THE STATE OF MONTANA; AND THE NEZ PERCE NATION OR TRIBE OF INDIANS, RESIDING UPON THE LAPWAI INDIAN RESERVATION, IN THE STATE OF IDAHO, AND UPON THE COLVILLE INDIAN RESERVATION, IN THE STATE OF WASHINGTON, V. THE UNITED STATES, IN THE UNITED STATES COURT OF CLAIMS.

As the duly authorized attorneys for the plaintiff Indians in the above entitled cause, we have the honor to report, as follows:

On a full presentation of plaintiff's case by us to the Court of Claims by oral argument on February 9, 1931, and by a printed brief of 63 pages and a reply brief of 119 pages filed therein, the court on April 10, 1933, delivered its opinion holding that plaintiffs were not entitled to judgment and ordering their petition dismissed.

Thereafter, we filed on behalf of plaintiffs a motion for new trial and brief in support thereof consisting of 45 pages and a reply brief of 27 pages. On December 4, 1933, the court delivered its amended opinion and gave judgment for said Blackfeet, Blood, Piegan and Gros ventre Indians in the amount of $881,568.03, apportioned as follows: To the said Blackfeet, Blood and Piegan Indians, $845,306.33, and to the said Gros ventre Indians, $35,259.70. Thereafter, Government Counsel filed a motion, with brief in support thereof, asking that said judgment be reduced by $359,100.46, on account of expenses of Indian pupils in schools off their reservations, in opposition to which we filed a reply brief. At the same time, we filed on behalf of plaintiffs a counter motion, with brief in support thereof, asking that the judgment be increased by $1,513,787.00, alleging as ground therefor that on account of the Government's contribution to the joint reservation provided for these and other Indians by the Act of April 15, 1874, the court had erred in decreasing the area of plaintiff's treaty lands, for which it was entitled to compensation, which had been taken by the United States south of the Missouri River under the authority of said act. We also filed a brief in reply to defendant's brief in opposition to said motion. On April 2, 1934, these motions seeking both to increase and reduce plaintiff's judgment were fully and exhaustively argued by us in open court.

On April 8th last, the court delivered its final opinion in the case, awarding said plaintiffs a judgment of $628,485.57, as proposed
Hon. Commissioner of Indian Affairs, Wash., D.C. June 19, 1935, No. 3

in defendant's motion, apportioned as follows: To the said Blackfeet, Blood and Piegan Indians, $455,844.80, and to the said Gros Ventre Indians, $186,880.77. As soon as available, we forwarded copies of the court opinion and judgment to said Indians of the Blackfeet and Fort Belknap Reservations. These letters were identical and a copy of our said letter of April 11, 1935, to Joseph W. Brown, President of the Blackfeet Tribal Business Council, is enclosed for your information. You will see that in our judgment it did not appear wise for us to take the case to the Supreme Court for a writ of certiorari, unless we were obliged to do so as a result of the Government's action in the matter, as we thought the Indian's risk of loss because of their 1868 treaties, which had not been formally ratified, was too great to justify such action.

Under date of April 29, 1935, we received a joint letter from Joseph W. Brown, for the Blackfeet Indians, and Clarence Brookie, for the Gros Ventre Indians, a copy of which is attached, from which you will see that we were instructed by them to accept the judgment on their behalf and secure as speedy a settlement of the same as possible. In pursuance of this request from our clients, we at once took the matter up with Government Counsel, and were advised on June 8th, by George Stormont, Esquire, of Government Counsel in this case, that the Solicitor General had determined not to ask the Supreme Court for certiorari and was writing the Secretary of the Treasury to that effect, in order that the judgment might be certified to Congress for appropriation. We accordingly asked the Clerk of the Court of Claims to prepare a transcript of the judgment, which we filed in the Treasury Department on June 10th, on being advised that it would be in time for certification to the Senate for inclusion in what would probably be the last deficiency appropriation bill to be considered by the present session of Congress.

In reviewing our approved contracts with these Indians, we now find the following language, which is identical in each of such contracts:

"The said parties of the second part, in the performance of the duties required of them under this contract, shall be subject to the supervision and direction of the Commissioner of Indian Affairs and the Secretary of the Interior and they shall not make any compromise, settlement or other adjustment of the matters in controversy unless with the approval of either or both of the said officers; said parties of the second part shall also pursue the litigation in question to and through the court of final resort, unless authorized to terminate the proceedings at an intermediate stage thereof."

The original contract with the Indians of the Blackfeet Reservation was approved by the Commissioner of Indian Affairs and the Secretary of the Interior on January 12, 1933, and the language quoted has not been changed by any extension or modification thereof. The contract with said Gros Ventre Indians was approved by the Commissioner of Indian
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Affairs October 3, and by the Secretary of the Interior October 6, 1931, and the language quoted has not been changed by any extension or modification thereof.

In view of this language quoted from each of said contracts, we are hereby submitting the question whether or not we are desired to submit a petition for certiorari in this case to the Supreme Court of the United States. The time for filing such a petition, and brief in support of it, expires on July 7th next. Therefore, it is requested that we be promptly advised as to whether such a petition for certiorari herein should be prepared and filed in the Supreme Court, in order that we may have as much time as possible for the preparation of the same, if it is to be so presented.

Let us add that in our judgment, it is not for the best interest of these Indians that such a petition should be presented to the Supreme Court.

We shall be glad to confer personally with you and your representatives regarding this matter if desired.

Awaiting your early advices, we have the honor to be,

Respectfully yours,

SERVEN, JOYCE & BARLOW and JOHN G. CARTER,

By (Signed) A.R. SERVEN
Of attorneys for plaintiffs.

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Enc. 2

This letter was presented by Mr. Serven and Mr. Campbell to Mr. Tranberger, Land and Contract Division, Indian Bureau, on June 19, 1935. Mr. Tranberger then stated that the Bureau was already in receipt of a letter from the United States Solicitor General, requesting their views in regard to the above case, to which they replied that they would be guided in the matter by whatever the attorneys for the plaintiff Indians thought wise and proper.

On June 4, 1935, a conference was had between the Assistant Attorney General, Special Assistant to the Attorney General Stormont, Mr. Serven, Mr. Carter and Mr. Campbell. At this conference the Government agreed that they did not desire to appeal, and the attorneys for the Indians agreed that they would not appeal if the certification of the judgment to Congress were expedited. J.G.C.
Blackfeet Indians et al. vs. United States

No. E-427.

Hearing Memorandum re: allowance of fees and expenses.

A. Total Amount involved in the case $63,707,365.47.

B. Time Required by Case:

The case has been in our office since February 2, 1909, and was very active before the Indian Department from that time until the first jurisdictional bill was introduced in the Senate February 15, 1911. Thereafter, it was vigorously and continuously urged with oral arguments at Committee hearings and the filing of appropriate briefs, which were specially prepared for each respective hearing to and including the session of Congress beginning in December 1923, with the sole exception of the War Congress of 1917-19. The jurisdictional act was approved March 12, 1924. The petition herein was filed July 10, 1925. Thereafter, one or more of the attorneys was almost continuously employed in the preparation of the case for trial and a voluminous correspondence in connection therewith until the first hearing thereon February 9, 1931. The court is familiar with the work in connection with the respective motions by both plaintiffs and defendant for re-hearings herein, leading up to the final hearing April 2, 1934, resulting in the combined judgment for $622,465.57.

C. Principal Issues Involved:

Hunting Ground Rights

1. Construction of 1851 and 1868 treaties regarding Blackfeet title to Hunting Ground area.

2. Construction of 1855 treaty regarding obligation of United States to protect equal and uninterrupted rights of plaintiffs in Common Hunting Ground.

3. The special difficulty of establishing value of plaintiffs rights in Hunting Ground.

4. Whether such rights were relinquished in case 1868 treaties were found valid.

All of these questions were exceedingly important and required the most careful investigation.

Tribal Lands Taken Without Compensation.

1. Determination of invalidity of '68 treaties absolutely essential.

2. Determination of area taken required consideration and construction of act of 1974, Executive Orders of '75, '74, '73 and '70.
and Agreement approved May 1, 1888.

2. Perhaps the most difficult issue in the entire case was the determination of the proper amount of acreage to be used as an offset against the Blackfeet treaty lands, taken without compensation, on account of the addition by the Government of public lands to the remainder of such treaty lands to provide for the foreign Indians placed by the Government on such enlarged Reservation.

As the Court will recall, this question necessitated two motions by plaintiffs for new trial and briefing and re-briefing by counsel attorneys for both parties, as well as the construction of Agreement approved May 1, 1888, before it was finally settled.

Oil and Gold Royalties.

The preparation of the case required very careful and exhaustive investigation as to whether claimant's treaty title to the lands taken from them gave them the right to have the royalties on oil and gold taken therefrom considered in fixing the value of the lands so taken.

Glacier National Park.

The claim of the plaintiff for damages on account of rights reserved in the territory later included in Glacier National Park required careful consideration of the question whether such inclusion eliminated that area from the public domain.

Government off-sets.

Government off-sets were finally allowed by the Court against these plaintiffs in the total amount of $6,508,409.31, all of which necessitated most careful examination and investigation by plaintiff's attorneys, in addition to the possible Government off-sets which were not allowed by the Court.

This case probably involved every ordinary off-set question that could arise in any Indian case.

D. Risk of Contingent Compensation:

The jurisdictional act required the attorneys in this case to perform all reasonable and necessary service and bear all of the expenses of litigation on an entirely contingent basis, without hope of compensation or reimbursement unless they secured judgment with which to pay same. It is universally recognized that in such cases, attorneys are fairly and reasonably entitled to greater compensation than would otherwise be the case.

E. Results Obtained:

The court found that these plaintiffs were entitled to recover a total of $6,130,974.98, against which Government off-sets were charged in the amount of $6,508,409.31, leaving a net judgment of $622,465.57.

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F. Compensation Generally for Similar Services:

Under the above circumstances and conditions it must be admitted that counsel in ordinary cases would seem to be entitled to compensation considerably in excess of the maximum provided by the jurisdictional act.

G. Resolutions of Tribal Councils.

We have submitted Resolutions of Tribal Councils representing these plaintiffs, requesting, for the reasons therein stated, that attorneys should be allowed the full fee of 10% of the judgments secured on their behalf, the maximum provided in the jurisdictional act, as amended, and in the attorney's contracts.

Under all of these conditions and in view of such requests, it would appear that the allowance of 10% of the judgment secured as compensation for the attorney's services herein is fully justified.

H. Allowance of Expenses.

The attorney's contracts, in addition to compensation for their services, also provide that the attorneys shall be reimbursed for their reasonable and necessary out-of-pocket expenses on account of the case. We have asked for the allowance of all out-of-pocket expenses on account of the depositions taken in regard to the use and value of the Common Hunting Ground and other claims and in the gathering and presentation of the evidence supporting such claims, in addition to the cost of printing herein and the certification of the execution of the contracts of employment, all of which appears to be reasonable and necessary for the proper prosecution of this litigation.

In view of the magnitude of the case and the number and variety of the issues involved, it appears that the share of these expenses, viz., §672.13, apportioned to the Gros Ventre Indians is exceedingly moderate and should be allowed in full.

Sincerely, Joyce E. Barnes and John G. Carter.

Washington, D. C., November 6, 1926.

Attorneys.

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Blackfeet, et al. Indians v. United States:  
Court of Claims of the United States, No. E-427.  

Plaintiff's Petition, Part XI.

Claim for Blackfeet on account of cessions of 1895,  
of the portion now composing the eastern part of the  
Glacier National Park.  

Act approved June 10, 1896, in Article I, of the agreement  
with the Blackfeet Indians in said Act, provides among  
other things the following:

For the cession of a strip of territory comprising the  
western portion of the Blackfeet reserve, and defining  
the boundaries of such cession made by the Blackfeet.

The words of the Act, and article I of the agreement, are  
clear as to boundaries, up to the following point, where  
the following boundary of the cession made, is described, namely:

"Thence in a straight line to the western extremity of Lower  
Two Medicine Lake; thence in a straight line to a point on the  
southern line of the right of way of the Great Northern Railway  
Company four miles west of the western end of the railway bridge  
averse the north fork of the Two Medicine River;"

Query: Does this mean a point four miles west of the bridge,  
in a line following the line of the railroad, in other words  
four miles by railroad tracks, west of the bridge; or  
does it mean four miles west of the bridge in a direct line.

If the words in question mean four miles west of the bridge  
following the railroad, the present boundary is probably  
correct.

If the words mean four miles due west, in a direct line, the if  
the should be two mile west of the present if the point of intersection  
or at a point about 3/4 mile due east of Lame, Montana.

If the intersection point should be two miles west of the point  
at which the survey now places it, then the Blackfeet have been  
deprived by this faulty survey of 5,440 acres, approximately, of  
their reservation. This, at $1.25 per acre is worth $6,800.00.  
But the approximate price per acre at which the Blackfeet ceded was  
the strip which they sold by this agreement was $10. per acre,  
and if they are allowed that on the above difference in acreage,  
they should receive $54,400.00 for the same.

Part XI of the petition would have to be amended, however to  
support the above claim, as part XI now only claims for loss of  
hunting and fishing rights in the ceded strip.

A recovery of $54,000, however, would be a recovery of over 20%  
of what is now claimed under Part XI of the petition.
DELEGATES OF THE BLACKFEET TRIBE OF INDIANS OF THE BLACKFEET INDIAN RESERVATION IN MONTANA NOW IN WASHINGTON ON TRIBAL BUSINESS:

JOE BROWN, PRESIDENT OF THE BLACKFEET TRIBAL COUNCIL, ROBERT J. HAMILTON AND RICHARD GRANT, DELEGATES.

THIS DELEGATION WAS SENT TO WASHINGTON TO PRESENT TRIBAL PROBLEMS BEFORE THE GOVERNMENT AND TO ASSIST THEIR ATTORNEYS A.R. SERVEN, JOHN C. CARTER AND GUY PATTEN IN THE TRIAL OF A SUIT OF THE BLACKFEET AND OTHER INDIANS AGAINST THE UNITED STATES INVOLVING A CLAIM FOR $68,707,000.00 BEFORE THE UNITED STATES COURT OF CLAIMS. THIS SUIT WAS TRIED MONDAY FEBRUARY 9TH., AND IS BELIEVED TO BE THE LARGEST CLAIM TRIED AGAINST THE UNITED STATES SINCE THE ALABAMA AND THE FRENCH SPOILATION CLAIMS. GUY PATTEN ARGUED THE CASE FOR THE INDIANS, AND ASSISTANT ATTORNEY GENERAL RUGG AND SPECIAL ASSISTANT ATTORNEY GENERAL GEORGE T. STORNOMT REPRESENTED THE UNITED STATES.

THE CLAIMS SUED UPON HAVE BEEN AGITATED BY THE BLACKFEET, CROS DUPTES AND NEZ PERCES INDIANS FOR THE PAST FIFTY YEARS, SUCH CLAIMS HAVING ARisen Shortly AFTER THE CIVIL WAR.

THE ACT GIVING JURISDICTION TO THE COURT OF CLAIMS TO HEAR AND DETERMINE THE CLAIMS OF THESE INDIANS WAS PASSED AND SIGNED BY PRESIDENT COOLIDGE IN 1924. THE ENACTMENT OF THIS LEGISLATION WAS DUE PRINCIPALLY TO THE EFFORTS OF SENATORS WALSH AND MEYERS, AND CONGRESSMEN EVANS AND RIDDICK OF MONTANA.

THE BLACKFEET DELEGATION ON FEBRUARY 10TH. HAD A CONFERENCE WITH COMMISSIONER OF INDIAN AFFAIRS RHODES, AT WHICH WAS PRESENT AND TOOK PART THE CHIEF OFFICERS OF ALL THE SECTIONS AND DIVISIONS OF THE INDIAN BUREAU, AND AT WHICH CONFERENCE THE VARIOUS PROBLEMS OF THE BLACKFEET WERE DISCUSSED MOST THOROUGHLY.

THIS DELEGATION WILL PROPOSE TO THE PRESENT CONGRESS CERTAIN REMEDIAL LEGISLATION FOR THE BENEFIT OF THE BLACKFEET INDIANS.

THE BLACKFEET, WHILE A WAR LIKE AND AGGRESSIVE NATION, HAVE NEVER BEEN AT WAR WITH THE UNITED STATES.