Of Federal Questions, Removal Jurisdiction and American Indian Law

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As Professor Akhil Amar notes in the January issue of the *Harvard Law Review*, during the early stages of the litigation in *Erie v. Tompkins*, 304 U.S. 64 (1938), the real dispute was about a railroad's duty of care; only at the Supreme Court level was it recast as involving the relative relationships of the Congress and the state and federal courts.

In *Oklahoma Tax Commission v. Graham*, the Tax Commission, with perhaps carefully studied naiveté, sued an Indian tribe in state court in a non-Public Law 280 state. It did so in an attempt to collect excise, sales, and gross receipts taxes on tribal cigarette sales, bingo operations, and the proceeds of a tribally owned motel on land held by the United States in trust for the tribe located in Sulphur, Okla. The Tax Commission's complaint cited solely to Oklahoma tax laws, and alleged neither jurisdiction nor a waiver of tribal sovereign immunity; the tribe removed the case to federal court.

While the path from Sulphur to Washington was a tortuous one, unlike in *Erie* the procedural vortex inherent in such a suit was recognized well before the current appeal, which constitutes, it may be noted, the second visit of this case to the United States Supreme Court.

**ISSUES**

Did the Tax Commission's state court complaint constitute a "well-pleaded complaint" based solely on state law, or do federal questions warranting removal (concerning either the extent of state civil jurisdiction over Indian activities in Indian country, tribal sovereign immunity, state taxing authority, or the exercise of the congressional trust responsibility in Indian affairs) inhere in the state's state-court complaint?

Is tribal sovereign immunity properly characterized as a "mere" federal defense?

If the Court finds the complaint to have been "well pleaded" solely on the basis of state law, is the "complete preemption" exception to that rule applicable here, based on the potency of the federal interest (pursuant to the congressional "trust" responsibility to the tribes) in regulating, unencumbered by inconsistent state court adjudications, either state civil jurisdiction or tribal sovereign immunity?

Is the Tax Commission's state court complaint subject to the "artful pleading" exception to the "well-pleaded complaint" rule?

Has tribal sovereignty been abolished in Oklahoma, rendering state law wholly applicable therein?

If not, and assuming that removal was proper, do either the tribe's sovereign immunity or the derivative nature of removal jurisdiction provide a basis for dismissal by the federal district court?

Are the tribal enterprises, which are located on trust land, within "Indian country" as that term is defined for jurisdictional purposes by 18 U.S.C. § 1151(a)?

If so, and insofar as § 1151 operates to limit the state's ability to administer its tax laws upon Indian tribes, is that Act within the authority granted Congress by the commerce clause?

The Court must rule on at least one of the first four (removal) issues; if it decides any of them in favor of the tribe, it can, of course, decline to address the other three. While the fourth issue, relating to the disestablishment of tribal sovereignty in Oklahoma, could be fatal to the tribe's position (since if it is not really a quasi-sovereign entity at all, there may well be few federal questions to discuss), this argument may not have been preserved below, and was not included in the Tax Commission's petition for certiorari in this case. In any event, the basis in the record for resolving an issue of this magnitude is exceptionally slim.

Should the Court determine that removal to federal court was proper, it may also rule on the "sovereign immunity" question as a basis for dismissal of the Tax Commission's action below. Alternatively, the Court could avoid this issue by determining that the state court lacked civil jurisdiction given the preemptive effect of Public Law 280 and similar federal statutes. Since the removal rules in effect at the time of removal in this case provided for derivative federal jurisdiction only (if the state court lacked subject matter jurisdic-
tion, the federal court acquired none), dismissal could be justified on this basis as well.

The status of the final two issues is equally unclear. The "Indian country" issue could be avoided, for example, by concluding that the suability of a tribe in state court is independent of the situs of its acts, since sovereign immunity is an inherent attribute of the tribe as a tribe. See, e.g., Puyallup Tribe v. Department of Game, 433 U.S. 165 (1977); Morgan v. Colorado River Indian Tribe, 443 F.2d 421 (Ariz. 1968). And it now appears that the Tax Commission is not planning to address the final issue, originally framed with an eye to National League of Cities v. Usery, 426 U.S. 833 (1976), with full vigor. Compare Brief of Petitioner at 31 with Reply Brief of Petitioner at 9.

FACTS

The Chickasaw Nation of Oklahoma is a federally recognized Indian tribe which was removed to South Central Indian Territory (now Oklahoma) early in the 19th century. Sulphur, Okla., is located within the tribe's original borders and within the jurisdictional boundaries defined by its current constitution, which was approved by the Bureau of Indian Affairs in 1983. Chickasaw territory was long ago opened to non-Indian settlement, and a large amount of it is now owned in fee by non-Indians.

In 1972, the tribe purchased, with tribal trust monies, the Chickasaw Motor Inn, in Sulphur, as a tribal economic development project. The tribe conveyed the property to the United States in trust for the tribe in August 1985.

As of Oct. 18, 1985, the Chickasaw Nation was conducting bingo games, renting motel rooms, and operating a smoke-shop at the Inn. The bingo enterprise, though licensed and regulated by the tribe, was unlicensed by the state; no state taxes were or are being paid on the tribal bingo or smoke-shop operations. On that date, the Tax Commission commenced a civil action in state court seeking to enjoin further tribal operations at the Inn until state taxes on such sales and proceeds had been paid. Effectively, the suit indirectly seeks money damages against the tribe.

As has been noted, the complaint made reference solely to state law. Jan Graham, who managed the tribal enterprise (no issue relating to Graham, who is no longer a tribal employee, has been raised by either party in the case), and the Chickasaw Nation were named as defendants. An immediate ex parte restraining order was issued by the state district court.

The tribe removed the action to federal court. It maintained in its removal petition that the Tax Commission's complaint was within the federal question jurisdiction granted by 28 U.S.C. §1331, and was removable to federal court pursuant to 28 U.S.C. § 1441. It attacked the civil jurisdiction of the Oklahoma court, and invoked tribal sovereign immunity. In February 1986, the court denied the Tax Commission's motion to remand the case to state court, and granted the tribe's motion to dismiss. In June 1987, a divided 10th Circuit panel affirmed, finding that the "substance" of the state's complaint was federal, in that the state was "attempting to enforce an element of its sovereignty, the power to tax, over an Indian tribe," and that dismissal was warranted on sovereign immunity grounds. Oklahoma v. Graham, 822 F.2d 951 (1987).

The Supreme Court granted certiorari, and on the basis of the certiorari petition and the tribe's brief in opposition to certiorari, vacated the 10th Circuit's judgment and remanded the case for further consideration in light of a recent removal case, Caterpillar, Inc. v. Williams, 107 S. Ct. 2425 (1987). On remand, the 10th Circuit addressed the Caterpillar issues and decided that it had been right the first time, finding a federal question inherent in the Tax Commission's complaint "because of the parties to the action." Oklahoma v. Graham, 846 F.2d 1258, 1260 (1988).

Dismissal, it added, was also warranted pursuant to the rules of removal jurisdiction applicable at the time of the case's removal to federal court. These rules had held that removal jurisdiction was derivative of the state court's jurisdiction only, so that the federal court acquired no jurisdiction over the substance of the controversy (other than its threshold "jurisdiction to determine its jurisdiction") if the state court had none, even though the action, presenting a federal question, might have originally been brought in federal court. See Lambert Run Coal Co. v. Baltimore & Ohio R.R., 258 U.S. 377 (1922). After removal in the present case, Congress abolished the Lambert Run rule by statute. Public Law 94-583, § 6, 90 Stat. 2898 (1986), codified at 28 U.S.C. § 1441(e).


BACKGROUND AND SIGNIFICANCE

Before addressing the procedural significance of the case (which, after all, is what the Supreme Court sought reconsideration of in its summary remand of 1987), a few comments concerning the substantive law background are in order.

Regarding cigarette sales, in Moe v. Confederated Salish and Kootenai Tribes, 425 U.S. 463 (1976), Washington v. Confederated Tribes of the Colville Reservation, 447 U.S. 134 (1980), and California State Bd. of Equalization v. Chemehuevi Indian Tribe, 474 U.S. 9 (1985), the Supreme Court determined, as a matter of substantive federal law, that smoke shops within Indian country are required to collect state sales taxes on sales to non-members of the tribe.

Three features of this line of case law are relevant here. First, in Colville, 447 U.S. at 161-62, the Court specifically validated state seizures of unstamped cigarettes prior to their arrival in Indian country, noting that "[i]t is significant that these seizures take place outside the reservation. ..." It specifically declined to rule on the validity of such seizures by the state within Indian country. Id. at 162. Second, Moe, Colville, and Chemehuevi were all cases in which the tribes originally brought the suits, seeking declaratory and injunctive relief. Thus, unlike the present case, tribal sovereign immunity—a doctrine of significant potency—was not in
issue in those cases. Finally, the Tax Commission's action here seeks to impose cigarette sales taxes on sales to tribal members as well as nonmembers—a result not sanctioned by the Colville line of decisions.

Regarding the bingo taxes, the 10th Circuit, in Indian Country, U.S.A. v. Oklahoma Tax Commission, 829 F.2d 967 (1987), cert. denied, 108 S.Ct. 2870 (1988), held that the distinctions drawn between smokeshops and bingo operations for regulatory jurisdictional purposes in California v. Cabazon Band of Mission Indians, 480 U.S. 202, 219-20 (1987), should be extended to the taxing jurisdiction arena as well. Thus, it concluded, the proceeds of tribal bingo operations within Indian country are immune from state taxation. Last fall, Congress, by legislation, adopted this approach in the Indian Gaming Regulatory Act, 102 Stat. 2467 (1988). While the Gaming Act has not expressly been made retroactive by Congress, the Indian Country, U.S.A. rationale covers pre-1988 cigarette sales in any case. Thus, the Tax Commission will not be able to impose its bingo tax even if it prevails in this case.

Finally, the state taxes sought to be imposed on the motel proceeds potentially involve a hypertechnical distinction (or alternatively a conflict in Supreme Court case law) involving McClanahan v. Arizona Tax Commission, 411 U.S. 164 (1973) (income earned by individual Indian, wholly within reservation, immune from state income tax), Mescalero Apache Tribe v. Jones, 411 U.S. 145, 155 n.11 (1973) (proceeds of tribally owned ski resort located on land leased from the United States subject to state gross receipts tax; leased lands analogized to trust lands for tax immunity purposes, but immunity held inapplicable in any case, since land was “off-reservation”), and United States v. John, 437 U.S. 634, 648-49 (1978) (modern meaning of “reservation” defined for jurisdictional purposes in context of 18 U.S.C. § 1151).

While the amicus brief for the Intertribal Council of the Five Civilized Tribes presents a detailed analysis of this issue, id. at 6 n.3, the cases conceivably could be reconciled given either the unique language of the New Mexico Enabling Act, on which the Court’s conclusion in Jones may ultimately have been based, or Mescalero’s implicit holding that off-reservation leased lands do not constitute “Indian country.” In short, the impact of Graham on the collectability of the state’s motel tax remains unclear.

The procedural ramifications of Graham are no less intriguing. The first ground for dispute involves the content and consequences of the “well-pleaded complaint” rule. The Tax Commission relies on Gully v. First National Bank, 299 U.S. 109 (1936), in which Gully, the state Collector of Taxes, sued the bank in state court to recover back taxes owed by a predecessor bank. Gully pled that the taxes were debts owed by the current bank’s shareholders. The bank removed to federal court, claiming that, since the state power to tax the shares of a national bank arose from federal law, the case was removable pursuant to the antecedent of 28 U.S.C. § 1441. At the Supreme Court level, the bank lost, with Justice Cardozo writing the opinion for a unanimous Court.

The Gully Court began by articulating the “well-pleaded complaint” rule, which states that, for removal purposes, a federal question must be disclosed on the face of a well-pleaded complaint. Id. at 112. The Tax Commission invokes the Court’s further observation that “[t]he federal nature of the right to be established is decisive—not the source of the authority to establish it. ... [I]t is unimportant that federal consent is the source of state authority.” Id. at 116 (emphasis added).

But Cardozo, being Cardozo, was never reticent to take with one hand what he gave with the other, and his abhorrence for absolutes constitutes no small part of his legacy. See, e.g., Carter v. Carter Coal Co., 298 U.S. 238, 327 (1936) (Cardozo, J., dissenting) (“a great principle of constitutional law is not susceptible to comprehensive statement in an adjectival”); Schechter Poultry Corp. v. United States, 295 U.S. 495, 554 (1935) (Cardozo, J., concurring) (“The law is not indifferent to considerations of degree”). In Gully, he continued:

“[T]he probable course of the trial, the real substance of the controversy, has taken on a new significance. A suit to enforce a right which takes its origin in the laws of the United States is not necessarily, or for that reason alone, one arising under those laws ... unless it really and substantially involves a dispute or controversy, respecting the validity, construction, or effect of such a law, upon the determination of which the result depends .... What is needed is something of that common sense accommodation of judgment to kaleidoscopic situations which characterizes the law in its treatment of problems of causation. One could carry the search for causes backward, almost without end. Instead, there has been a selective process which picks out the substantial causes out of the web and lays the other ones aside. ... To set bounds to the pursuit, the courts have formulated the distinction between controversies that are basic and those that are collateral, between disputes that are necessary and those that are merely possible.”

Id. at 113-14, 117-18 (emphasis added); cf. B. Cardozo, The Nature of the Judicial Process 30 (1921) (“There is the constant need, as every law student knows, to separate the accidental and the non-essential from the essential and inherent”). As the 5th Circuit’s decision in Gully had noted, there were numerous state-law issues which could have decided that case independent of federal law.

Based on these observations and subsequent case law, see, e.g., Franchise Tax Board v. Construction Laborers Vacation Trust, 463 U.S. 1, 8 (1983) (rejecting Justice Holmes’ 1916 observation that “[a] suit arises under the law that creates the cause of action” as an exclusionary rule); Caterpillar, 107 S. Ct. at 2429 (federal question jurisdiction exists when a federal question is presented on the face of a well-pleaded complaint); Metropolitan Life Ins. Co. v. Taylor, 107 S. Ct. 1542, 1546 (1987) (federal question jurisdiction exists when plaintiff’s well-pleaded complaint raises an
issue of federal law), the tribe contends that the appropriate standard is met. It supports its position with reference to *Oneida Indian Nation v. County of Oneida*, 414 U.S. 661 (1974), in which the tribe successfully brought what would otherwise have been an ejectment action based on state law in federal court. In sustaining federal question jurisdiction, the Court there observed that Indian title creates a federal possessory right wholly apart from normal state law principles. Justice Rehnquist, concurring, noted that the right to possession was based not only on the original land grant but also on the federal government’s “continuing solicitude” for tribal rights. *Id.* at 684. The tribe contends that these conditions are equally satisfied here.

While the Tax Commission vigorously disputes the tribe’s analysis of federal question jurisdiction in the context of the well-pleaded complaint rule, its response to the tribe’s “complete preemption” argument may mischaracterize the nature of that argument. “Normal” preemption is a doctrine by which state law is displaced by federal law pursuant to the supremacy clause; “complete” preemption, by contrast, is a removal jurisdiction doctrine by which a state court complaint, even if wholly “based” on state law (by virtue of whatever standard is imposed by *Gully, Franchise Tax Board, Caterpillar*, and *Taylor*), is recharacterized as “essentially federal in nature” for purposes of removal, based upon the potency of the federal interest in the area.

Complete preemption, which constitutes an exception to the “well-pleaded complaint” rule, has been applied to purportedly state law, state-court causes of action relating to collective bargaining agreements. *Avco Corp. v. Aero Lodge*, 390 U.S. 557 (1968); *see also Franchise Tax Board, Caterpillar*, and *Taylor*, is recharacterized as “essentially federal in nature” for purposes of removal, based upon the potency of the federal interest in the area.

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The Tax Commission characterizes the tribe’s argument as maintaining that the entire “field of Indian law” is completely preempted by federal law,” *Reply Brief of Petitioner at 3, and maintains that such an argument is foreclosed by *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973). The tribe, however, appears to be taking a narrower approach, maintaining that state civil jurisdiction in Indian country, tribal sovereign immunity, and state taxing authority over Indian tribes are subject to the complete preemption doctrine. *Brief for Respondent at 22-26.*

Concerning the state civil jurisdiction/complete preemption contention, it must be initially noted that, broadly speaking, states may be grouped for purposes of “Indian country” civil jurisdiction into two basic groups: *Public Law 280 states*, and *non-Public Law 280 states*. In *Public Law 280*, codified in relevant part at 28 U.S.C. § 1360, Congress, in 1953 (during an era of “assimilationist” Indian policy) granted jurisdiction to specified states over civil causes of action involving Indians in Indian country. Other states were permitted to “opt in” to the Public Law 280 scheme. In 1968, Congress amended Public Law 280 to require tribal consent to new state assumptions of jurisdiction. See 25 U.S.C. § 1322. Oklahoma was not made a “mandatory” Public Law 280 state in 1953, and has not “opted in” thereafter.

The Chickasaw Nation initially observes that Congress, pursuant to its “trust responsibility,” has from time to time enacted statutes relating to the civil jurisdiction of states over Indian activities in Indian country. Recent examples apart from Public Law 280 include statutes relating to the New York Indians, the so-called “termination acts” of the 1950s by which federal recognition of the status of certain tribes was extinguished, and the 1968 amendments to Public Law 280 itself. These statutes, the tribe maintains, establish a scheme of federal regulation over state civil jurisdiction that is so comprehensive and potent as to require insulation of the issue from inconsistent state court adjudications or state court self-delegations of jurisdiction.

Thus, the argument goes, absent delegation of authority by Congress, a state court not only lacks such jurisdiction, but, where removal is sought, is also completely preempted from even entertaining a suit that requires it to rule on the issue. Alternatively, the tribe contends that state courts, where Indian country Indian affairs are concerned, essentially sit as courts of limited, not general, original jurisdiction, so that complaints involving such situations, absent a jurisdictional allegation, are not “well pleaded” in any case.

The tribe’s second “complete preemption” argument is limited to situations in which a tribe, as opposed to an individual Indian, is sued in state court, and is based on tribal sovereign immunity. The Chickasaw Nation maintains that, as in the state civil jurisdiction context, congressional control over tribal sovereign immunity is not only theoretically necessary in order for Congress to fulfill its “trust” responsibility to the tribes, but also, as a practical matter, that such control has been exercised with some frequency over the years.

As a general matter, the tribe suggests, Congress has demonstrated that it knows how to abrogate tribal immunity when it wants to, and in the context of the Five Civilized Tribes (of which the Chickasaw Nation is one), has done so in limited fashion no less than three times since the Oklahoma Territory was created. Act of June 8, 1898, § 2, 30 Stat. 495; Act of April 6, 1906, § 18, 34 Stat. 137, 144; Public law 93-195, §2, 87 Stat. 769 (1973). That the powerful federal interest in regulating this aspect of tribal sovereignty might be undermined by inconsistent state court adjudications is urged by reference to *Oklahoma ex rel. May v. Seneca-Cayuga Tribe*, 711 P.2d 77 (Okla. 1985), in which the Oklahoma Supreme Court applied, in a manner at variance with decisions of other state and federal courts, a balancing test to override tribal immunity. Thus, whether the sovereign immunity issue
is resolved by Oklahoma or federal courts is an issue which is anything but theoretical to the tribe.

Finally, the tribe urges that the "artful pleading" exception to the "well-pleaded complaint" rule warranted removal of the case. In *Federated Department Stores v. Moihe*, 452 U.S. 394 (1981), the Court referred to the rule that courts "will not permit plaintiff to use artful pleading to close off defendant's right to a federal forum" as a "settled principle" of law. *Id. at 397 n.2; see also 14A C. Wright, A. Miller, and E. Cooper, Federal Practice and Procedure 266-73 (2d ed. 1985). Based on the background and context of the Tax Commission's state court complaint, the tribe asserts that this exception is also applicable to the case.

The Tax Commission devotes more than three-quarters of its brief in chief to defending the proposition that, since the sovereignty of the Oklahoma tribes has been disestablished by Congress, "reservation Indian" case law does not apply to them, sovereign immunity does not obtain, and both the removal and dismissal of this case were consequently erroneous. The Tax Commission invokes *Oklahoma Tax Commission v. United States*, 319 U.S. 598 (1943), for the proposition that Oklahoma Indians are assimilated into the non-Indian population, and employs the reports of the Dawes Commission (created by Congress in 1893 to effectuate the allotment of the lands of the Five Civilized Tribes) to support its theory that Congress intended to terminate those tribes. (Other Oklahoma reservations, it maintains, were abolished by the General Allotment Act of 1887, 24 Stat. 388.).


The tribe finds support for its continued enjoyment of sovereignty in both Oklahoma and federal court decisions, see, e.g., *Morris v. Watt*, 640 F. 2d. 404 (D.C. Cir. 1981). It also notes that the Supreme Court has defined "reservations" to encompass the standard articulated in *United States v. Pelican*, 232 U.S. 442, 449 (1912), which defined "reservations" as lands which "had been validly set apart for the use of the Indians as such under the superintendence of the Government." *United States v. John*, 437 U.S. 634, 648-49 (1978). According to the tribe, the trust lands in question here, within Chickasaw jurisdictional boundaries, satisfy this test.

*Graham*, it has been noted, presents a welter of potential issues concerning both federal jurisdiction and federal Indian law. Many of these issues may well be avoided by the Court, depending on how it chooses to chart its course through the procedural and substantive labyrinth. The nature of the Court's chosen path will, of course, determine whether *Graham* ultimately establishes more doctrine involving civil procedure, federal jurisdiction, or federal Indian law. In the case's current posture, it can hardly avoid teaching something about all three.

ARGUMENTS

**For the Oklahoma Tax Commission (Counsel of Record, Stanley A. Alexander, Assistant General Counsel, Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, OK 73194-0011; telephone (405) 521-3141):**

1. The Tax Commission's state court complaint was well-pleaded and contained all the necessary allegations, based wholly on state tax law, to invoke injunctive relief from that court.

2. Tribal sovereign immunity, constituting a mere federal defense, did not furnish a valid basis for removal to federal court.

3. Since the reservation system and tribal sovereignty have been abolished in Oklahoma, state law is applicable to all Indian activities in the state.

4. Tribal efforts to avoid the state's tax collection action by invoking either the "Indian country" definition of 18 U.S.C. § 1151 or the preemptive civil jurisdictional consequences of Public Law 280 are unavailing, since such a result would be violative of the principles of federalism embodied in the 10th Amendment.

**For Jan Grabm and the Chickasaw Nation of Oklahoma (Counsel of Record, Bob Rabon, 114 North Second St., Post Office Drawer 726, Hugo, OK 74743; telephone (405) 326-6427):**

1. Since state courts sit as courts of limited original jurisdiction in cases involving Indian activities within Indian country, the Tax Commission's complaint, devoid of jurisdictional allegations, was not "well-pleaded." If it was "well-pleaded," federal questions concerning state civil jurisdiction, tribal sovereign immunity, and state taxing jurisdiction inher in and are apparent from the face of the complaint. Moreover, reference to the removal petition for purposes of ascertaining the existence of a federal question is warranted by the "artful pleading" exception to the "well-pleaded complaint" rule.

2. Since tribal sovereign immunity is jurisdictional, and since, in this unique situation, state courts sit as courts of original jurisdiction, such immunity cannot properly be characterized as a "mere" federal defense.

3. Even if the complaint was "well-pleaded," and no federal question inheres in that complaint, application of the "complete preemption" exception to the "well-pleaded complaint" rule warrants removal here, based on the potency of the federal interest in regulating either state civil jurisdiction or tribal sovereign immunity, unencumbered by inconsistent state court adjudications.

4. The sovereignty of the Chickasaw Nation has not been abolished, and is consequently subject to the same juris-
dictional and sovereign immunity rules as applies to other tribes. These rules include the “Indian country”
definition of 18 U.S.C. § 1151, which constitutes a valid
exercise of congressional authority.

5. Dismissal below was warranted based both on sovereign
immunity grounds and on the absence of state civil
jurisdiction, since pursuant to federal removal rules in
effect at the time of removal, the federal court acquired
no jurisdiction where the state court had none, even if the
action could originally have been validly brought in
federal court.

AMICUS BRIEFS

In Support of Jan Grabwn and the Chickasaw Nation of
Oklahoma

The Inter-Tribal Council of the Five Civilized Tribes; Sac
and Fox Nation, Kaw Tribe of Oklahoma, Delaware Tribe of
Western Oklahoma, Cheyenne-Arapaho Tribes of Oklahoma,
Tonkawa Tribe of Oklahoma, Absentee-Shawnee Tribe of
Oklahoma, and Kickapoo Tribe of Oklahoma; Wyandotte
Tribe of Oklahoma, Seneca-Cayuga Tribe of Oklahoma, and
Comanche Indian Tribe of Oklahoma; Seneca Nation of
Indians, and Assiniboine and Sioux Tribes of the Fort Peck
Indian Reservation; Otoe-Missouria Tribe of Indians.