

BEFORE THE INDIAN CLAIMS COMMISSION

THE QUAPAW TRIBE OF INDIANS,
ET AL.,

Plaintiffs,

v.

UNITED STATES OF AMERICA,

Defendant.

Docket No. 14

ADDITIONAL FINDINGS OF FACT

The Commission makes the following additional findings of fact:

Article 4 of the Treaty of November 15, 1824, 7 Stat. 232, provides:

The Quapaw Tribe of Indians will hereafter be concentrated and confined to the district of country inhabited by the Caddo Indians, and form a part of said Tribe. The said nation of Indians are to commence removing to the district allotted them, before the twentieth day of January, one thousand eight hundred and twenty-six.

10. Pursuant to the provisions of said Article, the Quapaw Indians were removed from their ceded lands in Arkansas to the country inhabited by the Caddo Indians and were located therein on the Bayou Treache on the Red River. The boundaries of the land occupied by the Quapaw in the Caddo country are not shown in the evidence.

11. The United States was not required by the treaty of 1824 to provide the plaintiffs with any land in the Caddo Indian country, and did not do so, for the land they were removed to and occupied therein was given them by the Caddo Indians.

12. The country occupied by plaintiffs proved unhealthy, was subject to frequent inundations which annually destroyed their crops, and the Caddo refused to incorporate them into their tribe as was contemplated by the 1824 treaty. As the result of the unhealthy climate and physical conditions on the Red River, and the antagonism of the Caddo Indians, most, if not all the Quapaw, returned to their former home in Arkansas and requested the defendant to restore part of the lands the Indians had ceded in 1824. This the defendant would not do, but it agreed to provide the Quapaw with a permanent home in a more suitable location, and this was done by the treaty of 1833, hereafter referred to.

13. Article 2 of the treaty of November 15, 1824, reads as follows:

In consideration of the cession made in the first article of this Treaty, by the aforesaid Chiefs and Warriors, the United States engage to pay to the four head Chiefs of the Quapaw Nation, the sum of five hundred dollars each, in consideration of the losses they will sustain by removing from their farms and improvements. The payment to be made at the time they receive their annuity for the year 1825. And, also, to the said nation, the sum of four thousand dollars, to be paid in goods, at the signing of this Treaty. And the United States also engage to pay to the Quapaw Nation, one thousand dollars in specie, annually, for the term of eleven years, in addition to their present annuity.

The defendant paid to or expended for plaintiffs the following pursuant to the provisions of said article:

Annuities in cash or goods.....	\$ 7,450.00
Merchandise and goods.....	4,000.00
Payments to Indian Chiefs.....	2,000.00
Total	<u>\$13,450.00</u>

(Page 53, G.A.O. report,
Defend. Ex. 90).

14. Said treaty of 1824 also contains the following article:

Art. 5. For the purpose of facilitating the removal of said Tribe, to the district of country allotted them, and as a compensation for the losses sustained, and the inconveniences to which they may be exposed by said removal, the United States will furnish them with corn, meat, and salt, for six months, from the first day of January, one thousand eight hundred and twenty-six. The United States further agree to furnish a sum not exceeding one thousand dollars, to be expended by their agent, to facilitate the transportation of the said Tribe to the district of country herein assigned them. An agent, Sub Agent, or Interpreter, shall be appointed to accompany said tribe, and to reside among them.

Pursuant to the provisions of this article the defendant expended for said Indians the sums and for the purposes following:

Pay of interpreters.....	\$ 3,558.73
Pay of Sub-agent.....	500.00
Removals.....	1,000.00
Meat and salt.....	7,349.46
Total.....	\$12,408.19

(Page 53, G.A.O. report,
Defend. Ex. 90).

The defendant actually expended for removal of the plaintiffs to their new homes the sum of \$1,307.98, which was \$307.98 more than the amount provided for that purpose in said Article 5.

The defendant performed all its obligations under the 1824 treaty.

15. On May 13, 1833, 7 Stat. 424, the plaintiffs and defendant concluded a treaty which provided in part as follows:

Article I. The Quapaw Indians hereby relinquish and convey to the United States all their right and title to the lands given them by the Caddo Indians on the Bayou Treache of Red River.

Art. II. The United States hereby agree to convey to the Quapaw Indians one hundred and fifty sections of land west of the State line of Missouri and between the lands of the Senecas and Shawnees, not heretofore assigned to any other tribe of Indians, the same to be selected and assigned by the commissioners of Indian affairs west, and which is

expressly designed to be (in) lieu of their location on Red River and to carry into effect the treaty of 1824, in order to provide a permanent home for their nation; the United States agree to convey the same by patent, to them and their descendants as long as they shall exist as a nation or continue to reside thereon, and they also agree to protect them in their new residence, against all interruption or disturbance from any other tribe or nation of Indians or from any other person or persons whatever.

Pursuant to above Articles I and II, the defendant selected and conveyed to the Quapaw, 82,808.23 acres of land situate in the northeast corner of what is now Oklahoma and in southeast Kansas; however, that acreage was short 13,191.77 acres of the 150 sections of land the defendant agreed to convey, so by act of March 13, 1891, 26 Stat. 989, 998, the defendant appropriated and paid the plaintiffs the sum of \$39,423.03 for the shortage.

That the plaintiffs were removed to the new location on the Oklahoma-Kansas lands, conveyed as aforesaid, at the request of defendant.

16. Said treaty of May 13, 1833, in addition to Articles I and II, set forth in the last preceding finding, contained the following provisions:

Article III. Whereas it is the policy of the United States in all their intercourse with the Indians to treat them liberally as well as justly, and to endeavour to promote their civilization and prosperity; it is further agreed that in consideration of the important and extensive cessions of land made by the Quapaws to the United States and in view of their present impoverished and wretched condition, they shall be removed to their new homes at the expense of the United States and that they will supply them with one year's provision from the time of their removal, which shall be as soon as they receive notice of the ratification of this treaty by the President and Senate of the United States. The United States will also furnish and deliver to them, after their arrival at their new homes, one hundred cows, one hundred breeding hogs, one hundred sheep, ten yoke of working cattle, twenty-five ploughs, one hundred axes, one hundred hoes, four ox carts, and one wagon, with all their

necessary rigging, twenty iron hand cornmills, tools of different descriptions to the amount of two hundred dollars, also looms, wheels, reels and wool-cards to the amount of two hundred dollars, one hundred blankets, fifty rifles, and five shot guns all with flint locks, ten kegs of powder, and six hundred pounds of lead; The United States agree to provide a farmer to reside with them and to aid and instruct them in their agricultural pursuits and a blacksmith to do their necessary work, with a shop and tools and iron and steel not exceeding one ton per year. The United States also agree to appropriate one thousand dollars per year for education purposes to be expended under the direction of the President of the United States; the farmer and blacksmith and the above appropriation for education purposes to be continued only as long as the President of the United States deems necessary for the best interests of the Indians.

That after the time provided in the above article for furnishing the Quapaw with provisions, and in the years 1836, 1881 and 1882, defendant gratuitously expended for the benefit of the Quapaw, provisions in the sum of \$5,552.36. And in the years 1867, 1869, and 1872 to 1875, inclusive, the defendant gratuitously expended for the benefit of plaintiffs, in providing them with provisions, the sum of \$1,558.35. The defendant was under no treaty or contractual obligation to provide those Indians with provisions for the years mentioned.

Defendant also made cash payments to chiefs and council of the plaintiffs in lieu of farmer, as follows:

In the year 1869 the sum of	\$ 1,200.00
" " " 1870 " " "	300.00
" " " 1871 " " "	900.00
Total.....	\$ 2,400.00

(G.A.O. report, PP. 120, 121)

The defendant was under no treaty or contractual obligation to make such payments. All such cash payments were made out of public funds appropriated by the Congress.

17. The defendant, without any treaty or contractual obligations so to do, expended gratuitously for the benefit of plaintiffs during the period from November 15, 1824 to June 30, 1946, public funds for the purposes and in the amounts following:

Agricultural implements and equipment, 1879 to 1901.....	\$ 1,653.28
Clothing, 1833 to 1894.....	249.41
Expenses of Indian delegations.....	468.56
Fuel and light.....	29.10
Hardware, glass, oils, paint.....	1,156.63
Household equipment and supplies.....	303.43
Care and feed of livestock.....	397.45
Building material.....	19.45
Presents to Indians.....	721.48
Provisions, 1824 to 1889.....	9,312.75
Purchase of land, 1938.....	18,815.00
Transportation of:	
Agricultural implements, etc.....	338.33
Clothing.....	55.48
Fuel.....	26.01
Hardware, etc.....	282.19
Household equipment.....	158.19
Building material.....	35.47
Provisions.....	294.30
Mills and shops supplies, etc.....	96.21
Total.....	\$34,412.72

(G.A.O. reports, pp. 233-234)

All of the above listed expenditures were made after the conclusion of the treaty of November 15, 1824 and were made out of public funds appropriated therefor.

18. During the period from July 1, 1871 to June 30, 1946, the Quapaw Tribe was under the jurisdiction of the Quapaw Agency. The G.A.O. report, pp. 315 to 320, shows the Indian population by tribes during that period of time and shows that the Indians under that agency were members of a number of tribes, including the Quapaw. The number of Indians under said agency fluctuated somewhat during the years, but, with the exception of a few of the early years, there was

a gradual increase in population from 1245 in 1871 to 3795 in 1946. The number of Quapaw likewise changed, starting with 225 in 1871 there was, with the exception of a few years, a gradual increase until in 1946 there were 610. On the average, the Quapaw comprised 16.41 per centum of the entire Indian population under the Quapaw Agency for the years mentioned.

19. During the period from 1871 to 1886 there was expended for provisions for Indians under the Quapaw Agency, the sum of \$5,055.57, and during the years 1878 to 1945, the sum of \$3,636.60 for the same purpose, a total of \$8,692.17. These expenditures were made gratuitously by defendant and it is entitled to an offset on the award to the extent of 16.41 per cent thereof, or \$1,426.38.

20. During the period from 1871 to 1946, the defendant gratuitously expended for the benefit of the Indians under the Quapaw Agency, including the Quapaw, the sum of \$26,999.12 for the purposes and in the amounts following:

Clearing, breaking and fencing.....\$	28.00
Digging wells and well equipment.....	21.00
Planting and harvesting crops.....	51.91
Seeds, fruit trees, fertilizer.....	291.05
Agricultural implements and equipment...	1,382.23
Transportation of " " " ...	460.77
Expenses of Indian delegations.....	2.87
Hunting and fishing equipment.....	9.00
Indigent Indians, board and funeral expense.....	54.44
Livestock:	
Feed and care of.....	2,976.96
Feed of.....	357.74
Recovery of strayed or stolen.....	14.50
Livestock.....	61.60
Herders and stockmen.....	2,215.22

Mills and Shops:

Blacksmith shops.....	\$ 1,272.10
Carpenter shops.....	40.00
Machine shops.....	95.75
Saw mill.....	851.89
Supplies and equipment for.....	378.82
Sawmill watchman.....	941.97
Sawyer.....	1,842.86
Woodworker.....	582.90
Wagonmaker.....	1,850.00
Surveying and allotting.....	5.00
Indian supplies.....	132.70
Supplies for agricultural aid.....	45.12
Hardware, glass, oils, paints.....	250.36
" " " "	829.45
Household equipment and supplies.....	194.79
" " " "	664.19
Building material.....	6.85
" "	1,354.39
Pay of carpenter.....	675.01
Pay of laborers.....	5,745.35
Fuel.....	1,312.33
Total.....	<u>\$26,999.12</u>

That 16.41 per centum of said sum, or \$4,430.55, is chargeable to the Quapaw as their proportionate part of the benefits derived from said expenditures.

21. To summarize, the defendant is entitled to offsets against plaintiffs' award the following sums:

Under Finding No. 13.....	\$13,450.00
" " " 14.....	12,408.19
" " " 16.....	5,552.36
" " " 16.....	1,558.35
" " " 16.....	2,400.00
" " " 17.....	34,412.72
" " " 19.....	1,426.38
" " " 20.....	4,430.55
Total offsets.....	<u>\$75,638.55</u>

Dec. 6, 1951