

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE NATION,  
 Plaintiff,  
 v.  
 THE UNITED STATES OF AMERICA  
 Defendant.

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Docket No. 150

Decided: June 4, 1958

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 15, heretofore made herein:

16. The defendant, by its Amendment to Answer, filed February 1, 1957, claimed offsets in an aggregate amount of \$165,271.96. At the hearing on November 18, 1957, the defendant stated it was withdrawing its claim for certain items totaling \$129,937.85, leaving claimed offsets of \$35,334.11.

17. During the period from August 1, 1920, to June 30, 1951, the defendant claims the following gratuitous disbursements for the benefit of the Seminole Nation:

Agricultural aid:	
Clearing, breaking and fencing land	\$ 19.00
Seeds, fruit trees, and fertilizer	84.00
Indigent Indians:	
Cash payments	9,125.35
Fuel	70.00
Funeral expenses	160.00
Subsistence	721.08

Livestock:	
Feed and care of	<u>        .96</u>
Total	\$ 10,180.39

The disbursement of these items is detailed in Part II, Section A of the General Accounting Office Report of July 17, 1956, submitted as Defendant's Exhibit No. 55, as amended by Defendant's Exhibit No. 58, pages 1 and 2.

(a) The \$19.00 and \$84.00 items listed under agricultural aid were paid in 1943 and 1944 (all references to yearly disbursements refer to the fiscal year) under an appropriation entitled "Support and Rehabilitation of Needy Indians." (G.A.O. Report, p. 8). In 1943 and 1944 there were 2,000 Seminole Indians (G.A.O. Report, p. 16). The source of these funds indicates their use for individual, needy Indians and the sums sought to be charged as tribal gratuities are too small to be considered a distribution for the benefit of a 2,000 member tribe. They are denied as offsets.

(b) Of the \$9,125.35 listed as cash payments to indigent Indians \$2,273.00 paid in 1951 was disbursed under the appropriation entitled, "Health, Education, and Welfare Services, Bureau of Indian Affairs" (G.A.O. Report, p. 7); \$2,461.35 in 1945 and 1946 from the "Support of Needy Indians" appropriation (G.A.O. Report, p. 9); and \$4,391.00 during the years from 1947 through 1951 from the "Support and Rehabilitation of Needy Indians" (G.A.O. Report, pp. 12, 13). The payments are all listed in the G.A.O. report as being made to indigent Indians. The defendant's witness, Mr. Francis J. Gillies, a supervisory examiner for

The General Accounting Office, who prepared the G.A.O. report in this case, testified that the vouchers for all of the relief payments show names of individual Indians and a case number opposite each name (Tr. 305). The \$9,125.35 cash payments to indigent Indians were for the use and benefit of individual Indians and not a tribal benefit. They are denied as offsets.

(c) In 1947, a \$70.00 item for fuel was expended from the "Welfare of Indians" appropriation. This amount is listed in the G.A.O. report as a payment to indigent Indians (G.A.O. Report, p. 12) and Mr. Gillies testified at the hearing that this payment was made to indigent Indians. It is denied as an offset.

(d) Defendant paid \$160.00 for funeral expenses of indigent Seminole Indians. These payments were made from the "Support and Rehabilitation of Needy Indians" appropriation (\$75.00) (G.A.O. Report, p. 8) and the "Support of Indians and Administration of Indian Property" appropriation (\$85.00) (G.A.O. Report, p. 11). These payments constituted a tribal benefit and are proper offsets.

(e) The \$721.08 subsistence item was disbursed as follows:

\$548.22 - from the "Support and Rehabilitation of Needy Indians" appropriation

77.86 - from the "Support of Indians and Administration of Indian Property" appropriation

95.00 - from the "Welfare of Indians" appropriation

The G.A.O. Report, on pages 8 and 9, lists \$548.22 as payments made from 1942 through 1946 for the benefit of indigent Indians, and at

pages 10 and 11 lists \$77.86 as payments made in the years 1935, 1937, 1940 and 1941 for the benefit of indigent Indians. Likewise the \$95.00 payment is listed under the indigent Indians payments (G.A.O. Report, p. 12, 13). The Commission finds these payments were for the benefit of individual Indians and are, therefore, denied as offsets.

(f) The 96 cent item for feed and care of livestock was paid from the "Support and Rehabilitation of Needy Indians." Whatever support or rehabilitation this amount may have accomplished was individual and not tribal benefit. It is denied as an offset.

18. The defendant claims that in 1943 and 1946 there was gratuitously expended as subsistence for the support and rehabilitation of needy Indians, comprising Seminole and Creek Indians, \$63.54. Since the Seminole represented 16.8% of the total population of the two tribes, the defendant claims 16.8% of this amount -- \$10.67 -- as a gratuitous expenditure for the Seminole Nation. Since this payment was made to individual needy Indians, it was not a tribal gratuity and cannot be allowed as an offset.

19. The defendant claims that between July 1, 1930, and June 30, 1946, there was disbursed gratuitously for the Seminole Nation, jointly with other Indians of the Five Civilized Tribes Agency, \$50,217.82. Since the Seminole Indians comprised approximately 2.4% of all Indians residing under this agency, the defendant has claimed 2.4% of the amount -- \$1,205.23 -- as offsets. The gratuities allegedly spent for the tribes under the Five Civilized Tribes Agency were:

Agricultural aid:		
Seeds, fruit trees, and fertilizer	\$12,234.88	
Agricultural implements and equipment	115.50	
Indigent Indians	33,725.48	
Bags for seed		\$ 89.53
Clothing		168.80
Expenses of sacking seed		120.75
Fruit jars		2,979.59
Fruit trees		198.72
Garden seed		27,872.54
Packing & weighing garden seed		195.00
Purchase of livestock		1,386.00
Purchase of pressure cookers		220.00
Repairs to pressure cookers		5.50
Subsistence		40.80
Transportation, storage, etc. of garden seed		107.72
Transportation, storage, etc. of provisions		340.53
Livestock, feed and care of	4,050.00	
Transportation of clothing	<u>91.96</u>	
Total	\$50,217.82	

The disbursement of the above items is detailed in Part II, Section C of the G.A.O. Report, as amended by Defendant's Exhibit 58, pages 3 and 4.

(a) The sum of \$12,234.88 spent for seeds, fruit trees and fertilizer was disbursed during the period from 1942 to 1945 from the "Support and Rehabilitation of Needy Indians" appropriation. The source of these funds indicates their use for individual Indians and not as a tribal gratuity. There is no evidence indicating distribution of any portion of these funds to the Seminole Nation. The percentage sought to be offset against the award to the Seminole Nation is not allowed.

(b) The \$115.50 item was spent in 1935 for branding irons from the appropriation entitled "Support of Indians and Administration of Indian Property." The percentage of this item sought to be charged as a Seminole Nation gratuity is \$2.77 (2.4% of \$115.50). In view of the small amount involved and in the absence of any further proof concerning distribution of branding irons for use by the entire Seminole Nation, which numbered 1,789 in 1935, this item is disallowed as an offset.

(c) The \$33,725.48 expenditure for indigent Indians is broken down by items as shown above. These payments were made during the years 1931, 1932, 1933, 1934, 1935, 1937, 1938, 1940, and 1942. Most of the money came from the "Support of Indians and Administration of Indian Property" appropriation (G.A.O. Report, pp. 30-33) although \$2,143.95 was expended from the "Support and Rehabilitation of Needy Indians" appropriation (G.A.O. Report, p. 22). As the disbursement schedules in the G.A.O. Report show, these expenditures were for indigent Indians. These were not tribal benefits, and the payments are denied as offsets.

(d) The \$4,050.00 paid for feed and care of livestock is listed on page 28 of the G.A.O. Report as an expenditure made in 1946 for 300 tons of hay. It was paid from the appropriation entitled, "Support and Rehabilitation of Needy Indians," indicating its use for needy Indians and not as a tribal gratuity. This item is denied as an offset.

(e) The defendant claims as tribal gratuities the sum of \$91.96 expended for the transportation of clothing in 1939 and 1940. The payments were made from the "Purchase and Transportation of Indian Supplies" appropriation. Since all items listed under "clothing" are

been disallowed as offsets, the amounts claimed for transportation of clothing must also be disallowed as offsets.

20. The defendant claims that during the period from August 1, 1920, to August 31, 1947, the United States gratuitously expended the sum of \$3,047.70 for the benefit of the Indians of the Union or Five Civilized Tribes Agency and that, since the Seminole Nation of Indians comprised 2.4% of the Indians residing under that agency during that period, their proportionate share--\$73.14--should be offset against the award in this case. The payments, which are detailed in Part II, Section D, of the G.A.O. Report (pages 34-53), were:

Transportation of:	
Agricultural implements and equipment	\$ 5.47
Clothing	2,487.72
Fuel	2.82
Hardware, glass, oils, and paints	3.27
Household equipment and supplies	108.40
Provisions	437.47
Surveying supplies	<u>2.55</u>
	\$ 3,047.70

The sums expended for items under the headings of "agricultural implements and equipment," "clothing," "fuel," and "household equipment and supplies" have been disallowed as offsets. Accordingly, the transportation charges under those headings are disallowed as offsets. The \$437.47 listed as transportation charges for provisions cannot be included as a proper offset since all items relating to subsistence have been disallowed as offsets. The defendant also lists offset items of \$3.27 for transportation of "hardware, glass, oils and paints" and \$2.55 for

transportation of "supplies for surveying Indian reservations." The proportionate share sought to be charged the Seminole Nation for these two items is 7.8 cents and 6 cents, respectively. These items appear more likely to represent agency expenses, and they are disallowed as proper offsets.

21. The defendant seeks to setoff against the award the sum of \$1.68 representing 2.4% of a \$70.00 item expended for transportation of 5,000 lbs. of sugar to the Five Civilized Tribes Agency in 1948 (G.A.O. Report, p. 61). No offsets have been allowed for sums spent for sugar. This transportation charge is disallowed as an offset.

22. During the period from July 1, 1951, to June 30, 1956, the defendant disbursed the sum of \$23,863.00 in cash payments for indigent Seminole Indians, as relief grants (Def. Ex. 57). The yearly disbursements were:

1952	\$ 1,481.00
1953	2,278.00
1954	3,986.00
1955	6,534.00
1956	<u>9,584.00</u>
Total	\$23,863.00

No figures are available for the Seminole Indian population during this period. However, the population in 1931 was 1,789 and it increased to 2,000 by 1943, remaining at that figure during 1943, 1944 and 1945. The amounts paid in relation to the number of Seminole Indians together with the testimony of Mr. Gillies clearly indicates that these payments were not made on a tribal basis for the benefit of the Seminole Nation but rather went to individual, needy Seminole Indians. In discussing the



ash payments to indigent Indians referred to in Finding of Fact No. 17(b), the following cross-examination of Mr. Gillies occurred:

Q. In other words, what does the voucher show, or what do the vouchers show, with respect to the cash payments to these Indians?

A. The vouchers show relief payment grants and show names of individual Indians and a case number opposite each name. It does not identify the Indian by tribe. (Tr. 305)

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Q. Is that true with respect to the \$23,863 item on Page 9 of Defendant's Exhibit 58, the last item?

A. Yes, sir. That is true as to those also.

Q. Those were also cash payments to individuals?

A. Yes, sir. Strictly cash payments. (Tr. 309)

Since the payments were for individual indigent Indians and not a gratuity or the tribe, they are not proper offsets.

23. In summation, the only allowable offsets were the funeral expense gratuities in the total amount of \$160.00 referred to in Finding of Fact No. 17(d). All other items claimed as offsets against the award are disallowed. Defendant is allowed to offset \$160.00 against the award of \$34,213.66, leaving the sum of \$34,053.66, which petitioner is entitled to recover from defendant.

Edgar E. Witt  
Chief Commissioner

Louis J. O'Marr  
Associate Commissioner

Wm. M. Holt  
Associate Commissioner