

BEFORE THE INDIAN CLAIMS COMMISSION

THE QUILLEUTE TRIBE OF INDIANS, on its own behalf, QUILLEUTE TRIBE OF INDIANS, on its own behalf and on behalf of the HOH TRIBE OR BAND OF INDIANS; HOH TRIBE OR BAND OF INDIANS, on the relation of and represented by SCOTT FISHER, on its own behalf,

Petitioners,

Docket No. 155

THE QUINAIELT TRIBE OF INDIANS, ON its own behalf; QUINAIELT TRIBE OF INDIANS, on its own behalf and on behalf of the QUEETS TRIBE OR BAND OF INDIANS: QUEETS TRIBE OR BAND OF INDIANS, on the relation of and represented by HARRY SHALE, on its own behalf.

Petitioners,

Docket No. 242

v.

THE UNITED STATES OF AMERICA,

Defendant.

Decided: July 9, 1962

Appearances:

Glen A. Wilkinson, with whom was Angelo A. Iadarola, Attorneys for the Petitioners.

Ralph A. Barney, with whom was Mr. Assistant Attorney General, Ramsey Clark, Attorneys for the Defendant.

OPINION OF THE COMMISSION

Watkins, Chief Commissioner, delivered the opinion of the Commission.

In 1859 the petitioners in the above entitled cases ceded contiguous tracts of land located in the extreme western part of the State of Washington,

to the defendant by the Treaty of Olympia, which became effective in 1859. For reasons set forth in our Findings of Fact, which we think it is unnecessary to repeat here, the Commission held a joint hearing on the claims alleged in the two docket numbers.

The claims of the joint petitioners were based on unconscionable consideration for the lands ceded and on the further ground that the conduct of the defendant in its dealings with petitioners in obtaining the cession of the lands was not fair and honorable.

Interlocutory orders were entered in favor of the two tribes with respect to title to and the exclusive use and occupation of the lands ceded, and the location and boundaries of said lands. It was also ordered that these cases should proceed with the determination of acreage of said lands, the value thereof, and such other matters, including proof of payments on the claims, if any; allowable offsets, if any, etc., necessary to a final determination of the cases. From these interlocutory orders in the two cases each of the parties appealed to the Court of Claims. These appeals were pending at the time the motions, which are now before us, were filed. The appeals were dismissed in compliance with the stipulation, and the Commission now has jurisdiction to act on the motions for the approval or disapproval of the Stipulations for Entry of Final Judgment.

In considering compromise settlements of Indian claims there are at least two principal conditions which must be met:

1. The settlements must be just and fair to both the parties.
2. The Indians must be fully advised of the terms of the settlements and must have given their approval in accordance with the processes

they themselves, the Indian Bureau, and this Commission have adopted for such purposes. It is axiomatic that the United States must likewise be given fair treatment and the settlement must be properly authorized, but there is seldom, if ever, any difficulty on these scores.

Since these two cases resemble each other so closely, as has been found in our Findings, it is our purpose to make this opinion cover both of them, with an original to be filed in each Docket Number.

The evidence shows that the joint petitioners claimed that they had Indian title to 1,540,000 acres. The Commission found that petitioners had Indian title to approximately 688,000 acres as of March 8, 1859. The exact acreage would, of course, be determined in the next phase of the claims adjudication had the adjudication gone forward.

The areas involved were heavily forested, but at the time of the taking by the defendant there was an abundance of timber available in the general area of western Washington, and there was a very limited market in which to make sales.

Other matters incidental to the adjudication of the claims, such as the matters of expenses and time involved in further litigation, justify accepting smaller awards if time and money for expenses can be saved thereby. These settlements should result in the saving of both time and money. To this should be added the interest which the awards will earn during the time saved.

The rather elaborate proceedings to make sure the Indians have been fully advised and have freely expressed their approval as shown in our Findings should meet the second requirement. In addition it appears that

the matter of possible offsets has been carefully considered, and has been taken into consideration along with the other items.

We have no difficulty in these cases in concluding that the compromise settlements are fair and just to the parties, and that the two Indian groups understand the terms of the settlement and have given their practically unanimous approvals of it. All the requirements the Commission laid down in the Omaha case have been substantially met. Accordingly, the motions for approval of the compromise settlements are granted, and final judgments in favor of the petitioners for the compromise sums named in the stipulations will be entered.

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Chief Commissioner

We concur:

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Associate Commissioner

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Associate Commissioner