

The Commission makes the following additional findings of fact applicable to each of Docket Nos. 138, and 232, which findings of fact are supplemental to the Commission's findings of fact 1 through 51, entered herein on July 31, 1957 (as amended by the Commission's Order of November 29, 1957, and November 25, 1959) and the Commission's additional findings of fact 52 through 72, all of said prior findings being applicable to Docket Nos. 11-A and 138.

73. On July 31, 1957, the Commission entered its Findings of Fact, (Findings Nos. 1 through 51), Opinion and Interlocutory Order applicable to each of Docket Nos. 11-A and 138. On November 29, 1957, the Commission entered its Order amending its Findings Nos. 49 and 50 and its Interlocutory Order issued July 31, 1957. On November 25, 1959, the Commission entered its Order amending Finding No. 2. (See also Commission's per curiam opinion dated November 18, 1959, 13 Ind. Cl. Comm. 25.) By these findings, as amended, orders and opinions, the Commission held that by virtue of the treaty of August 19, 1825 (7 Stat. 272) and the treaty of July 15, 1830 (7 Stat. 328), four tribes, namely, the Otoe and Missouri Tribe, the Omaha Tribe, the Iowa Tribe, and the Sac and Fox Tribe received in common a certain area (being the greater part of a tract known as Royce Tract 151) located east of the Missouri River in what is now western Iowa and northwestern Missouri, and that each of said four tribes had an undivided one-fourth interest in said area. (Finding No. 2 issued July 31, 1957, as amended by Order entered November 25, 1959, and Finding No. 50 issued July 31, 1957, as amended by Order entered November 29, 1957.)

74. By subparagraph (4) of its Finding No. 49 issued July 31, 1957, as amended by Order entered November 29, 1957, the Commission found that the interest of the Sac and Fox Tribe in that part of said area situate in northwest Missouri passed to the United States on September 17, 1836, and on September 27, 1836, by cession under the treaties of September 17, 1836 (7 Stat. 511) and September 27, 1836 (7 Stat. 516). With respect to that part of said area situate in western Iowa, the Commission found that the interest of the Sac and Fox tribe passed to the United States on February 16, 1838, the date of the ratification of the treaties of October 21, 1837 (7 Stat. 540; 7 Stat. 543).

75. In May, 1961, a consolidated trial was held in Docket Nos. 11-A and 138 with respect to the value of the interest of each of the four tribes in the lands involved in this case as of the dates such interest passed to the United States.

76. On November 10, 1964, the plaintiffs, the Sac and Fox Tribes of Oklahoma, Iowa and Missouri, and the defendant filed a joint motion in Docket No. 138 for approval of a proposed compromise settlement of the Sac and Fox claims, and for entry of final judgment, in that docket, based upon a Stipulation made and executed by George B. Pletsch, Attorney of Record for the Sac and Fox Tribe of Indians of Oklahoma; Lawrence C. Mills, Attorney of Record for the Sac and Fox Tribe of the Mississippi in Iowa, and Stanford Clinton, Attorney of Record for the Sac and Fox Tribe of Missouri, and Ramsey Clark Assistant Attorney General, and Ralph A. Barney, attorneys for defendant. Said Stipulation, which is Sac and Fox Exhibit "A" to the joint motion, is set forth in words and figures as follows:

STIPULATION FOR ENTRY OF FINAL JUDGMENT

It is hereby stipulated between counsel for the Sac and Fox Tribes of Oklahoma, Iowa and Missouri, and for the defendant, the United States of America, that the claim of the Sac and Fox petitioners in the above-entitled Docket No. 138 shall be settled and finally disposed of by entry of final judgment as follows:

1. There shall be entered in said Docket No. 138 a final net judgment in favor of the Sac and Fox Tribes of Oklahoma, Iowa and Missouri, collectively, in the amount of \$1,131,533.42.
2. It is further agreed that the amount of \$150,000 of the \$1,131,533.42 net final judgment, together with any interest which may accrue on said \$150,000, shall not be subject to disbursement from the Treasury of the United States pending the final determination (including any appeal or review as provided by law) of the conflicting claim of the Yankton Sioux Tribe, petitioner in Docket No. 332-A, to compensation for land within the area (known as Royce Cession 151) lying south of the line described in Article 2 of the Treaty of August 19, 1825 (7 Stat. 272) as found by the Commission in its order entered herein on November 25, 1959. In the event that it shall be finally determined (including any appeal or review as provided by law) in favor of the said petitioner in said Docket No. 332-A that compensation is payable for land lying south of the Article 2 line as found by the Commission as aforesaid in its order of November 25, 1959, then said amount of \$150,000 withheld from disbursement, together with accrued interest thereon during the time said amount was on deposit in the Treasury of the United States, shall be returned to the credit of the United States and the situation shall be as if the final judgment herein was in the net amount of \$981,533.42 rather than \$1,131,533.42; Provided, however, that upon final determination in Docket 332-A (including any appeal or review as provided by law) denying said conflicting claim of the said petitioner in Docket No. 332-A, said amount of \$150,000, together with the accrued interest, shall be available for disbursement.
3. Entry of final judgment on this basis shall finally dispose of all rights, claims or demands which said Sac and Fox Tribes of Oklahoma, Iowa and Missouri have asserted or could have asserted, with respect to the subject matter of this case, and said petitioners shall be barred thereby from asserting any such rights, claims or demands against defendant in any other or future action or actions.
4. Entry of final judgment as herein provided shall finally dispose of all rights, claims, demands, payments on the claim, counterclaims or offsets which the defendant has asserted, or could have asserted, against said Sac and Fox Tribes under

the provisions of section 2 of the Indian Claims Commission Act, 60 Stat. 1049, and the defendant shall be barred, except as hereinafter provided from asserting any such rights, claims demands, payment on the claim, counterclaims or offsets, against the Sac and Fox Tribe for the period November 2, 1804 to June 30, 1960, except as to the following items:

- (a) Offsets in the amount of \$35,000 as provided in the stipulation filed with the Commission in Docket No. 83.
 - (b) \$140,800 of the sum paid to the Sac and Fox of the Missouri under the Treaty of October 21, 1837, 7 Stat. 543, for a general cession of land claims, it being understood and agreed between the Sac and Fox petitioners and the United States that said sum of \$140,800 is to be accredited to the Government on account of payments for Royce Cessions 175, 226, 244, and 262, and allocated in Dockets numbered 158, 209, 231 and 153.
 - (c) \$135,778.06 of the sum paid to the Confederated Sac and Fox Tribes under the Treaty of October 21, 1837, 7 Stat. 540, it being understood and agreed to between the Sac and Fox petitioners and the United States that said sum of \$135,778.06 is to be credited to the United States on account of payments for Royce Cession 244 involved in Docket No. 231. In the above allocation of the payments made under the Treaty of October 21, 1837, it is understood that such allocation shall not affect the question of the acreage of Royce Area 244, which is at issue in Docket 231.
5. It is further agreed that the United States shall not be barred by this stipulation or by entry of judgment pursuant hereto from claiming, in any action which may be instituted hereafter, offsets not previously disposed of, arising prior to November 2, 1804 or accruing subsequent to June 30, 1960.
 6. It is further agreed that as part of the consideration for the settlement of the claims of the Sac and Fox Tribes as herein provided, Docket No. 232 entitled Sac and Fox Tribe of Oklahoma, et al. vs. United States, shall be dismissed with prejudice by the Indian Claims Commission.
 7. The final judgment of the Indian Claims Commission pursuant to this stipulation shall constitute a final determination of the claims of the above-named petitioners in this case and shall become final on the day it is entered, the parties to the stipulation waiving any right to appeal from, or otherwise seek review of, such determination.

8. The final judgment entered pursuant to the stipulation of settlement shall be by way of compromise and settlement and shall not be construed as an admission for purpose of precedent or argument in this or in any other case.
9. Counsel for the parties hereto shall execute and file with the Commission a joint motion for entry of said final judgment pursuant to the stipulation of settlement, submitting a proposed form of final judgment for approval by the Commission.

s/ Ramsey Clark
 RAMSEY CLARK
 Assistant Attorney General

s/ Ralph A. Barney
 RALPH A. BARNEY
 Attorney for Defendant

s/ George B. Pletsch
 GEORGE B. PLETSCHE, Attorney
 of Record for the Sac and Fox
 Tribe of Indians of Oklahoma

s/ Lawrence C. Mills
 Lawrence C. Mills, Attorney of
 Record for Sac and Fox Tribe
 of Mississippi in Iowa

s/ Stanford Clinton
 STANFORD CLINTON, Attorney of
 Record for the Sac and Fox
 Tribe of Missouri

77. On November 16, 1964, and January 26, 1965, hearings were held by the Commission on the joint motion for the approval of the settlement of the Sac and Fox claims in Docket Nos. 138 and 232, and on the offsets applicable to all of the Sac and Fox dockets in the amount of \$35,000, which offsets were the subject of a Stipulation filed July 19, 1961, in Docket No. 83, and provides as follows:

"STIPULATION

It is hereby stipulated between counsel for the parties to the above-entitled cause that gratuitous expenditures made by the United States in behalf of the petitioners shall be the subject of the following offset settlement:

1. The compromise settlement is in the sum of \$35,000.00.

2. Gratuities previous to November 2, 1804, or subsequent to June 30, 1960 are not included in the settlement, and are hereby preserved to the United States for use in any subsequent litigation between the named tribes and the United States.

3. Subject to No. 2 above, the settlement disposes of all gratuities which otherwise would have been claimed against the Sac and Fox Tribe of Indians of Oklahoma, the Sac and Fox Tribe of Missouri, and the Sac and Fox Tribe of the Mississippi in Iowa, or any one of them, as petitioner or petitioners in Docket Nos. 83, 95, 135, 138, 143, 153, 158, 195, 209, 219, 220, 231 and 232, before the Indian Claims Commission.

4. The settlement is without prejudice to the right of any of the parties to appeal from any judgment of the Indian Claims Commission on any ground other than the allowance of gratuitous expenditures from November 2, 1804 through June 30, 1960 as offsets.

5. The agreed upon settlement amount of \$35,000.00 shall be applied in reduction of the first final award by the Indian Claims Commission which may be entered by the Commission in a docket in which all three of the above-designated Sac and Fox Tribes are petitioner, to wit: Docket Nos. 83, 95, 135, 138, 143, 153, 158, 209, 231 and 232.

6. The approval of this compromise settlement by each of the three Sac and Fox Tribes, petitioners herein, is to be by appropriate resolution. Defendant shall be furnished with copies of each of said resolutions and supporting papers, including the approval thereof by the Secretary of the Interior or his authorized representative.

7. Any judgment on offsets entered by the Commission pursuant to this stipulation shall be by way of compromise settlement and shall not be construed as an admission by any of the parties for purposes of precedent or argument in any future offset proceedings in any case.

s/ George B. Pletsch

GEORGE B. PLETSCH

Attorney of Record for the
Sac and Fox Tribe of Indians
of Oklahoma, Edward Mac,
Pauline Lewis and William Newashe,
231 South La Salle Street
Chicago, 4, Illinois

DALLSTREAM, CHIFF, HARDIN, WAITE & DORSCHEL,
of Counsel

