

BEFORE THE INDIAN CLAIMS COMMISSION

THE KICKAPOO TRIBE OF KANSAS,)	
THE KICKAPOO TRIBE OF OKLAHOMA, ET AL.,)	
)	
Petitioners,)	
)	
v.)	Docket No. 316
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ADDITIONAL FINDINGS OF FACTS

23. During the period between 1840 and 1864, a number of bands or groups of Kickapoo Indians left the main Kickapoo tribe. In 1868 it was reported by Commissioner of Indian Affairs Taylor that approximately 800 of these Indians were then living in Mexico. The Texans complained to Commissioner Taylor that these Kickapoos were devastating the western part of Texas and then fleeing with their plunder and captives to a base of operations in northern Mexico beyond the reach of the United States and Texas authorities.

Communicating these matters to the Secretary of the Interior, Commissioner Taylor recommended that "*** in view of the excited feelings on the part of the citizens of Texas, and of probable serious difficulties arising with Mexico should the citizens undertake to redress their grievances ***" (Def. Ex. No. 18, p. 2), these Indians should be removed from Mexico immediately. He suggested that the party which had most recently left the Kickapoo reservation in Kansas be returned to that reservation, and that the remaining Kickapoo Indians, estimated to number about 600, be moved "to some suitable locality in the Indian

country". (Def. Ex. No. 18, p. 2) He further recommended that Congress be requested to appropriate a sum sufficient for the transportation and subsistence of all the Kickapoo during the journey from Mexico to either the Kansas reservation or the Indian Country as the case may be and to subsist those brought to the Indian territory for one year.

24. By the Act of July 15, 1870, Congress appropriated funds "to enable the Secretary of Interior to collect bands of Kickapoo or other Indians roving on the borders of Texas and Mexico, and to locate and subsist them in the Indian Territory", (16 Stat. 359). Referring to this appropriation, Commissioner of Indian Affairs Parker declared in his annual report that "Perhaps the most suitable home for these Indians can be found in what is known as the 'Leased District,' west of the Chickesaw country, from which section most of them emigrated to Mexico more than twenty years ago." (Pet. Ex. No. 1-A) Commissioner Parker also stated that after these Indians were established in their new home it would be necessary to provide for their support until they were able to sustain themselves.

25. By the Act of March 3, 1871, Congress appropriated funds "for the removal of the Kickapoo and other American Indian tribes roving on the borders of Mexico and Texas to reservations within the Territories of the United States, and for their settlement and subsistence on such reservations" (16 Stat. 569). United States Indian Agent John D. Miles, pursuant to instructions dated one day after this enactment, went to Mexico with a delegation of Kickapoo Indians from the Kansas reservation, and met with the Kickapoo Indians gathered in Santa Rosa.

The agent's mission was made difficult by the residents and local officials who wished the Kickapoo Indians to remain in Mexico. Agent Miles stated that they did all they could to effect the removal of the Kickapob and would have been successful if it had not been for the interference of the local residents and officials.

"We made use of every opportunity to present to them our friendly mission and the advantage they would derive from the acceptance of the kind offer made by the Great Father at Washington", Miles said. (Def. Ex. No. 19, p. 193)

However, though the people of Santa Rosa treated them very kindly, continued Miles,

"*** they were decidedly opposed to the removal of the Kickapoos, giving for their reason the assertion that the city of Santa Rosa and the whole community around would be invaded at once by Mescalero Apaches, Lipans, and other marauding bands of Indians; that the Kickapoos were their only defense; and not only this, but that the Kickapoo labor and the Kickapoo trade was a matter of no mean importance to them" (Def. Ex. No. 19, p. 194)

The nature of "the kind offer made by the Great Father at Washington" was not described in detail by Agent Miles. However, it probably referred to a reservation since one of the chiefs, Wah-pa-ka, said he

"*** did not like the idea of taking his people up to an unknown reservation without some assurance that the land was good, and where it was to be located, and how much was to be given them, and who their neighbors were to be, and some other questions that I was not authorized to answer." (Def. Ex. No. 19, p. 195)

It was reported by General Reynolds, after a visit to the border area, that the Mexican officials were utilizing the Kickapoo Indians as a cloak for thefts of Texas cattle by Mexicans. (Def. Ex. No. 19)

26. In 1873, Special Agents H. M. Atkinson and Col. T. G. Williams were appointed to make another attempt *** to remove said Indians to

some point within the limits of Indian Territory, where they could be kept from depredating on and annoying the inhabitants of Texas, and started in the pursuits of civilized life." (Pet. Ex. No. 3-A)

They proceeded to Saltillo, the capitol of the State of Coahuila and were there introduced to Governor Cepeda deeming it "useless to go first where the Kickapoos, Pottawatomies, and other roving bands of Indians, Lipans, and Mescaleros were reported to be encamped, because they were all, by a recent treaty or agreement with Governor Cepeda of Coahuila, under his direct protection and supervision." (Pet. Ex. No. 5-A) After stating to Governor Cepeda that the purpose of their mission was the removal of the Kickapoos and other Indians back to their proper reservation, Atkinson and Williams asked his cooperation in accomplishing this object and requested the appointment of one of his officers as a commissioner to work with them. In accordance with their requests, Governor Cepeda appointed a commissioner and "also issued a proclamation to all officials and citizens in the State, requiring them to assist us in our work; and he advised the Indians to accompany us if they thought that their condition would be improved." (Pet. Ex. No. 5-A) However, "many influential citizens of Coahuila, and members of the state legislature strongly opposed the governor's course toward us". (Pet. Ex. No. 5-A) In spite of this local opposition Atkinson and Williams felt that the governor's course was approved by the central government.

27. While on route to Santa Rose, the town nearest where the Kickapoo Indians were located, Agents Atkinson and Williams learned that a party of Americans under General MacKenzie had crossed into

Mexico and attacked the Kickapoos, killing some and taking others prisoner. General MacKenzie later explained to them in writing "that he was following a trail of Lipan Indians, and that it led to the Kickapoo camp, and that they had received a blow intended more particularly for the Lipans, who had just been depredating in Texas." (Pet. Ex. No. 5-A) However, this provided an incident which was used by the citizens of Santa Rosa to stir up and prejudice the Kickapoos against the two agents insomuch that their lives were in danger. Despite threats and intimidations Agents Atkinson and Williams persisted in trying to effect the purpose of their mission. They met in council with the Indians and explained that an immediate removal to a reservation in the United States would be to their advantage. The Mexican Commissioner endorsed these statements counseling the Indians that "it was the desire of both Governments that they should go, that they would be protected, and in all respects better off". (Pet. Ex. No. 5-A) However, even though a council had been previously held in which a large number of the Kickapoos decided to return to the United States, they now turned a deaf ear to the proposals of Atkinson and Williams because of the recent raid by General MacKenzie and would not consider returning until the Indian captives had been returned to them.

After further negotiations the Atkinson-Williams mission succeeded in inducing about 300 Kickapoo Indians to remove to the Indian Territory. These Indians settled on the north fork of the Canadian River in the early autumn of 1874. An additional 114 Kickapoo Indians left Mexico in April 1875 and arrived at the Kickapoo Agency in July 1875. Atkinson

and Williams later reported that though the attack of General MacKenzie caused them many problems "*** doubtless its results contributed largely to our final success, by exhibiting the power of the United States even outside our country, and proving to the Indians that Mexico could no longer afford them a safe harbor after their raids into Texas." (Pet. Ex. No. 5-A)

28. Reservation life and the attempt to cultivate the soil involved a great change in the habits of the Kickapoo. They were supplied with farm equipment by the United States Agent and the first year they cultivated 63 acres. However, Agent Woodard reported in 1876 that even though the Kickapoos had "raised fine crops of corn, beans, pumpkins, and melon", they were restless and hard to satisfy and threatened to go back to Mexico if certain demands were not complied with. More specifically they claimed that certain treaty stipulations or conditions upon which they agreed to leave Mexico had "not been complied with, i.e., presents to chief Che-gnaw-me-ko-ho-ko to the amount of \$500, and Mas-que-to's band, who have never received anything in the way of presents." (Pet. Ex. No. 10-A)

In 1880, the Kickapoo Agent, referring to the Kickapoo "on their reservation" reported that they had "considerable land under cultivation," and were then breaking and fencing new ground and digging wells. He estimated that they would produce that year 8,000 bushels of corn and 50 tons of hay. (Pet. Ex. No. 11-A) This was done with United States Government help but their agent constantly endeavored to impress upon their minds "that the time is not far distant when they will be

compelled to support themselves without aid from the government". (Pet. Ex. No. 11-A) This Government aid was necessary to enable the Kickapoos to subsist in Oklahoma during the years following their removal from Mexico and such aid had been promised to the Kickapoos by the Government as an inducement to persuade them to leave Mexico and settle "on their reservation".

29. In accordance with the promises of the United States Commissioners the Kickapoos had been placed on a tract of land in the Indian Territory. However, they were somewhat dissatisfied because the Government had taken no steps to secure their title to this land prior to 1883. Because of the discontent of the Indians with that situation, on August 15, 1883, the President issued an executive order which set apart the tract they were then occupying, describing said tract by metes and bounds, for the permanent use and occupancy of the Kickapoo Indians.

Said order is as follows:

It is hereby ordered that the following-described tract of country in the Indian Territory, viz: Commencing at the southwest corner of the Sac and Fox Reservation; thence north along the western boundary of said reservation to the Deep Fork of the Canadian River; thence up said Deep Fork to the point where it intersects the Indian meridian; thence south along said Indian meridian to the North Fork of the Canadian River; thence down said river to the place of beginning, be, and the same hereby is, set apart for the permanent use and occupation of the Kickapoo Indians. (Pet. Ex. No. 13-A)

Commenting on this executive order, the Commissioner of Indian Affairs, in his annual report of 1883, declared (Pet. Ex. No. 14-A):

Although lands were promised them no steps were taken to secure them in possession of the lands which they have continued to occupy. Inasmuch as the insecurity of their title was a source of uneasiness and discontent an Executive Order

