

BEFORE THE INDIAN CLAIMS COMMISSION

CHEYENNE-ARAPAHO TRIBES OF INDIANS	)	
OF OKLAHOMA, suing on its own behalf	)	
and as representative of the	)	
CONFEDERATED TRIBES OF CHEYENNE AND	)	
ARAPAHO INDIANS OF THE UPPER	)	
ARKANSAS, also known as the SOUTHERN	)	
CHEYENNE AND ARAPAHO TRIBES OF INDIANS,	)	
and on behalf of the CHEYENNE AND	)	
ARAPAHO TRIBES OF INDIANS,	)	
	)	
	)	Docket No. 329-A
Petitioner,	)	
	)	
v.	)	Docket No. 329-B
	)	
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
	)	
Defendant.	)	

Decided: October 18, 1965

Appearances:

John D. Sullivan, with whom was Mr. Assistant Attorney General, Edwin L. Weisl, Jr., Attorneys for Defendant

William Howard Payne and John M. Schiltz of the law firm of Hutton, Schiltz & Sheehy, Attorneys for Petitioner

OPINION OF THE COMMISSION

Holt, Associate Commissioner, delivered the opinion of the Commission.

These cases, Docket Nos. 329-A and 329-B, are now before the Commission for consideration of the joint motion of the parties seeking approval of a proposed compromise settlement whereby said cases are to be consolidated for all purposes and settled, compromised, and finally disposed of by entry of a final net judgment for petitioner in the amount of \$15,000,000.00, with no review or appeal taken by either party.

The claims of the petitioner, the Cheyenne-Arapaho Tribes of Oklahoma (also known as the Southern Cheyenne and Arapaho Tribes), together with the claims of the Northern Cheyenne Tribe and the Northern Arapaho Tribe were originally presented in a petition filed on August 10, 1951, and assigned Docket 329, the claim asserted by all three petitioner tribes being one for additional compensation for the cession of their lands reserved under the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749). In the same petition the Cheyenne-Arapaho Tribes of Oklahoma also asserted claims for other alleged wrongs committed by defendant which claims the Commission on November 28, 1958, ordered severed from the petition in Docket 329 and filed in a separate petition designated Docket No. 329-A. Later, by order of the Commission on July 28, 1961, the Cheyenne-Arapaho Tribes of Oklahoma were permitted to amend the severed petition in Docket 329-A.

On November 1, 1955, this Commission held the three petitioners in Docket 329 owned by virtue of the 1851 Fort Laramie Treaty, an area in Colorado, Wyoming, Kansas and Nebraska, comprising 51,210,000 acres of land. On December 6, 1961, the Commission held said land was worth \$23,500,000 as of October 14, 1865, the date the parties agreed the defendant acquired the petitioners' interests therein. We also held that petitioner, the Southern Cheyenne and Arapaho Tribes had an undivided one-half interest in said lands, fixing the consideration paid the Southern Cheyenne and Arapaho Tribes at \$1,434,131.38, "plus the fair market value of the lands set apart for said tribes (Finding 39) by

executive order of the President of August 10, 1869." Pursuant to a stipulation of the parties approved by the Secretary of the Interior and the Commission, the Commission entered orders on August 6, 1962, amending its findings, opinion and interlocutory order entered December 6, 1961, whereby the share of the Southern Cheyenne-Arapaho tribes in the Fort Laramie Treaty lands was increased to 50.61% thereof. At the request of the petitioners, the defendant not objecting, the Commission on November 13, 1962, entered an order amending the amended interlocutory order of August 6, 1962, to provide that thereafter each of the petitioner tribes in Docket 329 should proceed separately in all subsequent proceedings and the Southern Cheyenne-Arapaho Tribes were assigned to Docket No. 329-B.

Thus, in order to determine whether the consideration paid the Southern Cheyenne-Arapaho Tribes for their 50.61% interest in the Fort Laramie Treaty lands was unconscionable, there remained the question in Docket 329-B of the value of the lands in Oklahoma set apart for aforesaid tribes by the executive order of the President of August 10, 1869, and ceded to the United States under the agreement of October, 1890, ratified by the Act of March 3, 1891 (26 Stat. 989). Also, in the event the consideration of \$1,434,131.38 paid said tribes plus the value of the Oklahoma Executive Order lands was found to be unconscionable, then there would be the question of allowable offsets chargeable against said tribes.

However, the petitioner tribes elected to proceed with their claims in Docket No. 329-A, and on May 24, 1965, valuation proceedings were had before the Commission on their reservation lands in Oklahoma alleged to

have been ceded and relinquished to the defendant under the agreement of October, 1890, ratified by the Act of March 3, 1891.

Thereafter, and before any decision by the Commission in Docket 329-A, the parties entered into negotiations for a compromise settlement of all claims of the Southern Cheyenne-Arapaho Tribes in both Docket No. 329-A and 329-B. These negotiations were successful and the joint motion of the parties asking approval of the settlement now before us was filed and heard at a special hearing on October 11, 1965.

The Commission has found that the members of the petitioner tribe and its Business Committee have been fully advised of the terms of the proposed settlement of all the Southern Cheyenne-Arapaho Tribes' claims in Docket Nos. 329-A and 329-B and of the claimed offsets of the defendant and the reasons why it should be entered into; and that the Tribes by resolution approved it by a vote of 338 for with only 2 opposed at a general meeting of the members of the tribes held on September 18, 1965, duly and properly called to consider the settlement; and with the entire fourteen duly elected members of the Cheyenne-Arapaho Business Committee for the Cheyenne-Arapaho Tribes of Oklahoma adopting, ratifying and confirming the aforesaid resolution. The proposed settlement has also been approved by an authorized official of the Department of the Interior.

We are of the opinion that all the formal requirements of the Commission which were adopted with respect to proof of a valid approval of a compromise settlement by the petitioner and defendant have been substantially complied with by the parties.

Under all the circumstances we are of the opinion that the compromise

settlement is fair and just to both the petitioner and the defendant and should be approved. Therefore, we conclude that the joint motion of the parties for entry of final judgment in accordance with the Stipulation for Entry of Final Judgment should be granted and Final Judgment will be so entered.

Wm. M. Holt  
Associate Commissioner

We concur:

Arthur V. Watkins  
Chief Commissioner

T. Harold Scott  
Associate Commissioner