

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.)	

Decided: Sept. 29, 1967

Appearances:

Louis L. Rochmes, with whom was Allan Hull, attorneys for the petitioners.

W. Braxton Miller, with whom was Mr. Assistant Attorney General Edwin L. Weisl, Jr., attorneys for the defendant.

OPINION OF THE COMMISSION

Watkins, Commissioner, delivered the opinion of the Commission.

This case is back before the Commission on remand from the Court of Claims. The hearing before the Commission of the liability phase of this case resulted in an interlocutory award of \$936,000 less such offsets as would be allowable under the Indian Claims Commission Act. This decision was dated May 4, 1962. A further hearing was held to determine the extent of such offsets and on August 31, 1965, the Commission handed down a decision allowing the sum of \$120,252.93 and the value of the Oklahoma reservation as offsets against said award. Petitioners appealed this decision to the Court of Claims and defendant cross-appealed. On February 17, 1967, the Court of Claims handed down its decision which affirmed the determination of the Commission in part, reversed it in part, and remanded the case for

further proceedings consistent with its opinion. In remanding the case, the Court of Claims said:

". . . the United States is entitled to set off the value of the Oklahoma Reservation, this to be measured in terms of original purchase price of 30 cents per acre. It is similarly entitled to set off the sums expended for the Kansas land purchase. As an additional offset, it may claim the costs incurred in transporting to the Kickapoos those items of supply which the Kickapoos were to purchase from their treaty funds. As to the subsistence expenditures which arose after 1893, we have noted that there exists support linking the necessity for these expenditures to the Government's undue insistence upon its lands-in-severalty policy. The Commission is to reassess these expenditures and if, after a further hearing, examination bears out the point that the expenditures were necessary because of improper economic disruption which the severalty program may have occasioned, then the expenditures should be disallowed. . . ." (The Kickapoo Tribe of Kansas, The Kickapoo Tribe of Oklahoma, et al., v. The United States, Appeal No. 13-65, Decided February 17, 1967, p. 15)

On September 6, 1967, petitioners and defendant filed with the Commission a "Stipulation of Facts Arising Under Mandate of the Court of Claims." In this document the parties stipulated the acreage of the Oklahoma reservation at 206,466 acres. The allowance of the Court of Claims of 30 cents per acre for this land brings the gratuity allowed under Finding 30 as modified by Finding 42 to be \$61,939.80.

The parties also stipulated that the expenditures for the subsistence of the Kickapoos after 1893 which were occasioned by the "improper economic disruption" caused by the Government's severalty program was \$18,270.40. This stipulation changes the total offsets under Finding 38 as modified by Finding 43 to \$55,459.04.

In Finding 39, the Commission disallowed the government's transportation charge of \$636.87. This finding was reversed in accordance with the Court of Claims decision so that under Finding 44 offsets in the amount of \$637.87 were allowed.

These stipulations by the parties have made the holding of a further hearing on these matters unnecessary and have made it possible to enter a final award in favor of petitioners in the amount of \$771,441.26 as stated in Finding 47 herein.

An order to this effect will be entered.

Arthur V. Watkins
Arthur V. Watkins
Commissioner

Wm. M. Holt
Wm. M. Holt
Commissioner

T. Harold Scott
T. Harold Scott
Commissioner