

BEFORE THE INDIAN CLAIMS COMMISSION

THE KICKAPOO TRIBE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 318
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: June 11, 1969

FINDINGS OF FACT

1. The plaintiff herein is the Kickapoo Tribe of Oklahoma and as such is authorized by the Indian Claims Commission Act of August 13, 1946 to prosecute the claims set forth in its petition in this case. This claim arises out of the provisions of cession to the defendant of the lands comprising the major portion of the plaintiff's Oklahoma reservation ceded by the agreement of September 9, 1891, ratified by the Act of March 3, 1893 (27 Stat. 557).

2. The plaintiff received title to the ceded reservation as of October 1, 1874 as a gratuity from the United States, and its value was offset against an earlier recovery in Indian Claims Commission Docket No. 316, Kickapoo Tribe of Kansas, Kickapoo Tribe of Oklahoma, et al., v. United States, 15 Ind. Cl. Comm. 628, 632-636; modified, 18 Ind. Cl. Comm. 550.

By the terms of said agreement of September 9, 1891, the petitioning tribe ceded to the United States approximately 184,300 acres

out of the total acreage of the aforesaid Oklahoma reservation of 206,466 acres. The balance of the acreage was disposed of mainly in allotments to individual Indians of the tribe. The ceded reservation, located in Central Oklahoma on the north fork of the Canadian River, is identified as Royce Area 650 and is adjoined on the east by Royce Area 495, a reservation ceded by the Sac and Fox, February 13, 1891 and the subject of the Commission's decision in Docket No. 220, 17 Ind. Cl. Comm. 544, and on the south by the reservation of the Citizens Band of Potawatomis, Royce Area 506 ceded to the United States on March 3, 1891 and which is the subject of the Commission's decision in Docket No. 96.

3. The consideration for the cession by the plaintiff under the agreement of September 9, 1891 was \$64,650.00 in cash. In 1908 upon the petition of the Kickapoos of Oklahoma, \$215,000 was appropriated by Congress as additional consideration to the petitioning tribe, making a total for the ceded reservation of \$279,650, or approximately \$1.50 per acre. It is the claim of the plaintiff in this docket that the total consideration previously received by the plaintiff for the ceded acres of the Oklahoma Reservation as set forth constituted an unconscionable consideration when compared with the value of the land at the time of the cession.

4. By letter dated October 5, 1967 Allan Hull, attorney of record for the petitioning tribe, proposed settlement of Docket No. 318 to Edward L. Weisl, Assistant Attorney General (Plaintiff's Exhibit #1) in accordance with an attached proposed form of stipulation. By letter of March 4, 1968 from the Assistant Attorney General to Mr. Hull (Plaintiff's

Exhibit #2) the compromise settlement in the net amount of \$273,250 was agreed to, subject to the approval of the governing body of the Kickapoo Tribe of Oklahoma by appropriate resolution and the approval of the Secretary of the Interior or his authorized representative.

5. By notice sent to each member of the Kickapoo Tribe of Oklahoma from Mr. Gordon Wahpepah, Secretary of the Kickapoo Tribe of Oklahoma, a special meeting of the General Council of the Kickapoo Tribe of Oklahoma was called for August 3, 1968 (Plaintiff's Exhibit #3, Transcript of Hearing on Compromise, pp. 9-10).

At the August 3, 1968 meeting held at the Kickapoo Community Center, McLoud, Oklahoma, at 1:30 p.m. on August 3, 1968, Mr. Hull, attorney for the Kickapoo Tribe of Oklahoma, appeared and explained the terms of settlement to the members of the tribe, following which the Kickapoo Chairman, James Wahpepah, further explained the proposal to the tribal members in the Kickapoo Indian language. There was a period during which questions were proposed and answered, and after discussion the following resolution (Plaintiff's Exhibit #6) was adopted by a vote of 38 in favor and 7 against:

"RESOLUTION

"WHEREAS, the Kickapoo Tribe of Oklahoma has a claim pursuant to the United States of America of the Kickapoo Tribal Reservation in the State of Oklahoma, which claim is before the Indian Claims Commission as its Docket #318, and

"WHEREAS, a proposed settlement has been negotiated of the claim by duly appointed counsel for the said tribe, and the United States Department of Justice, subject to the approval of the said tribal organization and the Secretary of the Interior of the United States, and

"WHEREAS, after due notification to all of its members, a formal meeting of the Kickapoo Tribe of Oklahoma was called and held at McLoud, Oklahoma on August 3, 1968, for the consideration of such proposed settlement, and

"WHEREAS, all the considerations affecting such settlement have been fully explained to the members of the tribe, and have been fully discussed, and the said tribe considers that the proposed settlement is entirely fair and approval of the settlement is beneficial to the tribe.

"NOW, THEREFORE, BE IT RESOLVED that the Kickapoo Tribe of Oklahoma hereby approves and ratifies the settlement of the claim represented by Docket 318 before the Indian Claims Commission for the amount of Two Hundred Seventy Three Thousand and Two Hundred Fifty Dollars (\$273,250.00) subject to the approval of the Secretary of the Interior of the United States or his authorized representatives.

"CERTIFICATION

"We, the members of the Kickapoo Tribal Business Committee of the Kickapoo Tribe of Oklahoma, do hereby certify that the attached Resolution, MK-69-1 to be true and exact copy so approved at a Meeting of Kickapoo Tribe of Oklahoma, held on 3 August 1968, there being a quorum present and by a vote of 38 for and 7 against.

"IN WITNESS WHEREOF, we have hereunto set our hand this 3rd day of August, 1968.

/s/ James Wahpepah
JAMES WAHPEPAH, Chairman

/s/ Houston Stevens
HOUSTON STEVENS, Vice Chairman

/s/ Stanard Wiles Sr.
STANARD WILES SR., Treasurer

/s/ Mary White
MARY WHITE, Member

/s/ Gordon Wahpepah
GORDON WAHPEPAH, Secretary

"AUTHENTICATION OF SIGNATURES

"I certify that the foregoing signatures of the Chairman, Vice-Chairman, Treasurer, Secretary and Member of the Tribal Business Committee of the Kickapoo Tribe of Oklahoma are genuine, and that the resolution was approved by the Tribal Council and that said meeting occurred in my presence.

/s/ John E. Taylor
Superintendent, Shawnee Agency
Bureau of Indian Affairs
Department of the Interior"

