

BEFORE THE INDIAN CLAIMS COMMISSION

THE SQUAXIN TRIBE OF INDIANS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 206
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: June 30, 1969

Appearances:

Frederick W. Post, with whom was Malcolm S. McLeod, Attorneys for Plaintiff.

Craig A. Decker, with whom was Mr. Assistant Attorney General, Ramsey Clark, attorneys for the Defendant.

OPINION OF THE COMMISSION

Chairman Kuykendall delivered the opinion of the Commission.

This is the last of four cases which involve tribal claims arising out of the 1854 Treaty of Medicine Creek, hereinafter referred to as the 1854 Treaty (11 Stat. 1132). Based upon the same record which is now before us, this Commission determined the Indian title issues in Docket No. 208, Steilacoom Tribe v. United States, 11 Ind. Cl. Comm. 304 (1962), in Docket No. 203, Puyallup Tribe v. United States, 17 Ind. Cl. Comm. 1 (1966), and in Docket No. 197, Nisqually Tribe v. United States, 21 Ind. Cl. Comm. 173 (1969).

The plaintiff in this case is the Squaxin Tribe of Indians, a present

day organized tribe operating under a constitution and bylaws, and having authority to act in its own behalf. The plaintiff tribe seeks to bring and maintain this suit as the successor in interest to the "Squawskin" tribe or band of Indians that was a signatory to the 1854 Treaty. While there probably are descendants of members of the 1854 "Squawskin" tribe or band of Indians in the ranks of the plaintiff tribe, the evidence in the record does not support the tribal successorship rights as contended for by the plaintiff.

The Commission has examined the annual reports of the office of the Indian Agent under whose charge was placed the Squaxin and other Medicine Creek Treaty tribes. Agent Edwin Eells held this particular post for almost twenty-five years and filed his first report in 1870. It seems apparent from his observations that following the 1854 Treaty and after these tribes had been placed upon reservations provided for under that treaty, there began a slow decay and diminution of the tribal way of life in contrast to what had prevailed in the pre-treaty era. The lands on the several reservations were ultimately divided up and allotted to the Indians resident thereon. By taking allotments individual Indians gained citizenship, became subject to taxes and earned their livelihood either in the employ of the whites or by their own labor.

In one of the last reports made in 1894 Agent Eells offered the following comments:

"This agency embraces what were formerly seven reservations, viz: the Chehalis, Georgetown, Nisqually, Puyallup, Quinaielt, S'kokomish, and Squakson reservations. Except the land reserved for school farms on the Chehalis, Puyallup, and S'kokomish reservation, all of the land on all but the Georgetown and Quinaielt reservations has been allotted and patented, and the Indians living thereon are citizens. They vote, pay taxes on personal property, and some of them hold office. Their land is inalienable and not subject to taxation; otherwise they have the same rights and privileges as the white people by whom they are surrounded." (Annual Report of the Commissioner of Indian Affairs (1894) p. 319)

In the absence of any strong evidence to the contrary the events following the 1854 Treaty of cession raised a strong presumption that the "Squawskin" tribe slowly died out as a tribal entity. The presumption is strengthened somewhat when we consider the fact that under the bylaws of the present day Squaxin Tribe of Indians membership is also open to all original allottees and their direct descendants of 1/8th degree or more Indian blood. The plaintiff tribe is therefore entitled to bring and maintain this action only in a representative capacity on behalf of the "Squawskin" tribe or band of Indians.

The gist of the complaint herein is that, as of March 3, 1855, the ratification date and therefore the effective date of the 1854 Treaty, supra, the "Squawskin" tribe or band of Indians held Indian title to a specific area of land in the lower Puget Sound region including therein the inlets, bays, and neighboring rivers and streams, and that by virtue of the 1854 Treaty, it ceded to the United States its aboriginal lands for an allegedly unconscionable consideration. For this tribal wrong the plaintiff is asking for additional compensation under Section 2(3) of the Indian

Claims Commission Act (60 Stat. 1049, 1050). Defendant has denied all of the plaintiff's allegations in this regard and has requested the Commission to dismiss the petition.

Although we believe that the evidence of record does not support a dismissal of the petition, nevertheless the Commission does not subscribe to the plaintiff's rather extravagant claims relative to the extent of its aboriginal ownership to the area in question. It is this title issue that is before us at this stage of the proceedings.

As was the Commission's experience in the course of resolving the title question in the other Medicine Creek cases previously referred to, certain basic conclusions can be drawn that seem equally applicable to all Puget Sound tribes, including "Squawskin".

For the most part the Puget Sound tribes were relatively small in size and they were essentially water-oriented, drawing their daily subsistence from the bays, inlets, rivers and streams. Hunting in the true sense of the word was the exception among these Indians, it being a sporadic activity designed to supplement the marine economy. The village sites were located near the water and were the foci of tribal socio-political activity. The villages were autonomous in nature and the area of most intensive land use. It was customary among the Puget Sound tribes to share in common the traditional fisheries and the better known root gathering and berry picking grounds away from the immediate village sites.

Moving from the general to the particular the Commission has found nothing in the evidence that would cause us to view the 1854 "Squawskin"

tribe any differently from the neighboring Puget Sound tribes.

The "Squawskin" tribe was indeed a small tribe at the time of the 1854 Treaty. George Gibbs counted only 40 of them in 1855. In the post treaty years, head counts made by Indian agents with respect to the Squaxin on the Squaxin Island Reservation shows figures ranging from a high of 150 in 1875 to an unusually low count of 50 in 1876. For the most part up through at least 1900 the Squaxin population hovered around the 100 figure.

Practically all of the early reporters and other authorities of note such as George Gibbs, Myron Eells, Edward S. Curtis, Frederick Hodge, Leslie Spier, and William Elmendorf, locate the Squaxin Indians on the east side of the isthmus between Hood Canal and Case Inlet and the east half of Hartstene Island. The only village attributed to the Squaxin Indians at treaty time was located near the present town of Allyn on North Bay at the head of Case Inlet. None of the above authorities or early reporters lends any support to plaintiff's attempt to subsume any other Puget Sound tribe under the Squaxin. That the "Squawskin" 1854 entity was indeed an autonomous entity seems to be universally accepted at least in the record before us.

Being relatively small in number, located at a single village and wedded strictly to a marine economy, it is apparent that the 1854 "Squawskin" tribe or band needed only a relatively small area to sustain tribal life. With this in mind, and consistent with the findings of fact herein as supported by the evidence of record, the Commission is of the opinion that

on March 3, 1855, the effective date of the 1854 treaty of cession, the "Squawskin" tribe or band of Indians held Indian title to that area described in Commission Finding No. 9.

The determination of such other issues as the exact acreage involved, its fair market value, the lands reserved from the subject area, the consideration paid, if any, by the United States, and the ultimate question of liability, will be the subject of further proceedings before the Commission.

  
Jerome K. Kuykendall, Chairman

We concur:

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret A. Pierce, Commissioner

  
Brantley Blue, Commissioner