

## BEFORE THE INDIAN CLAIMS COMMISSION

THE SUQUAMISH TRIBE OF INDIANS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Docket No. 132
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: October 22, 1970

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 52 heretofore made herein, and to the findings of fact numbered 1 through 14 heretofore made in the decision resolving common issues of various Point Elliott Treaty claims, including the instant Docket No. 132, reported as Upper Skagit Tribe of Indians, et al., v. United States, 13 Ind. Cl. Comm. 583 (1964).

53. The defendant set out its claimed offsets in a motion for determination of offsets filed on May 8, 1968. The total offsets claimed against the plaintiff amounted to \$43,345.52. Defendant was unable to support by adequate proof certain of the offsets itemized and so advised the petitioner's counsel of record, Frederick W. Post, by letter dated October 23, 1968, copy of which was mailed to the Commission. Abandoned were the items appearing in Sections AB and AC,

Part III of the Report (Defendant's Exhibit 10) of the General Accounting Office. (These reports are now compiled by the General Services Administration.) Defendant's evidence offered in support of the offsets claimed was limited to expenditures for "provisions", "clothing", "Funeral expenses", and "purchase of land" in the remaining sections of the GAO Report. Accordingly, we find that defendant's offset claims against the petitioner are limited to the disbursement items noted above.

54. Under Part III, Section C of the GAO Report, the defendant has claimed gratuitous expenditures for "Provisions" in the amount of \$4,614.76. In analyzing the disbursement schedules which are the source of these sums, the Commission has observed, however, that the expenditures for provisions itemized therein amount to \$4,711.01. The Commission has used this latter amount in making its findings.

55. Under Part III, Section C of the GAO Report, the defendant has claimed the following amounts, totalling \$4,711.01, as gratuitous expenditures for provisions made for tribes and bands of Indians parties to the Point Elliott Treaty:

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
1. "Incidental Expenses of Indian Service in Oregon and Washington"	1864	\$ 15.00
2. "Incidental Expenses of Indian Service in Washington"	1874	42.48
3. "Removal and Subsistence of Indians in Oregon and Washington "	1865	8.00
4. "Removal and Subsistence of Indians in Washington Territory"	1858	212.28

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
5. "Support of D'Wamish and other allied Tribes in Washington"	1881 to 1923	\$4,337.00
6. "Transportation of Indian Supplies"	1878 to 1902	96.25

The defendant introduced in evidence a representative voucher to substantiate the above disbursements. (Defendant's offset exhibit No. 2.) Defendant's witness, Mr. Burrell C. Yates, testified that all of the original accounts and records are available in the Federal Records Center at Suitland, Maryland. (Transcript, p. 6.)

Under Items 3 and 4, the titles of the respective appropriations indicate that these expenditures (which are classified as from "other than treaty appropriations" in the GAO Report) were for removal expenses and are not proper gratuitous offsets under section 2 of the Act.

During the period the remaining disbursements were made, approximately 11.3 percent of the total population of the tribes who were parties to the Point Elliott Treaty were Suquamish Indians. The following table represents 11.3 percent of the amount disbursed annually under Items 1, 2, 5 and 6 to the tribes which were parties to the treaty:

<u>Year</u>	<u>Suquamish Population</u>	<u>Provisions</u>	<u>Transportation of Supplies</u>
1859	485	-	-
1860	No figures	-	-
1861	"	-	-
1862	"	-	-
1863	"	-	-
1864	"	1.70	-

<u>Year</u>	<u>Suquamish Population</u>	<u>Provisions</u>	<u>Transportation of Supplies</u>
1865	No figures	-	-
1866	"	-	-
1867	"	-	-
1868	"	-	-
1869	"	-	-
1870	"	-	-
1871	"	-	-
1872	"	-	-
1873	"	-	-
1874	"	4.80	-
1875	"	-	-
1876	"	-	-
1877	"	-	-
1878	"	-	\$ 2.01
1879	"	-	-
1880	"	-	-
1881	"	46.33	-
1882	"	-	3.05
1883	"	69.50	-
1884	150	-	-
1885	No figures	-	-
1886	"	78.54	2.39
1887	"	-	-
1888	"	-	0.86
1889	"	27.97	-
1890	"	50.85	0.63
1891	"	-	-
1892	"	-	1.45
1893	"	42.38	-
1894	"	45.20	-
1895	"	27.12	-
1896	153	-	0.32
1897	151	5.20	-
1898	163	26.56	-
1899	157	18.65	-
1900	156	15.26	-
1901	150	18.19	-
1902	160	18.36	0.17
	Totals	\$496.61	\$10.88

From the above, it appears that the annual disbursements for provisions range from a low of \$1.70 in 1864 to a high of \$78.54 in 1886, with none at all in many years. The annual disbursements for

transportation of supplies range from a low of \$0.17 in 1902 to a high of \$3.05 in 1882, with no disbursements in many years. In view of the very small annual disbursements and their infrequency as well as the character of the disbursements as indicated from the representative voucher, the Commission finds that they did not constitute benefits to the tribe. Accordingly, these disbursements for provisions and transportation of supplies are disallowed as gratuitous offsets.

56. Under Part III, Section C of the GAO Report, the defendant claims the following amount as a gratuitous expenditure for the purchase of land:

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
"To Pay Settlers for Improvements on Lands within Reservations at Puget's Sound"	1862	\$9,000.00

This amount represents expenditures made in settlement of obligations under Article 2 of the Point Elliott Treaty and is disallowed as a gratuitous offset.

57. Under Part II, Section F of the GAO Report, the defendant has claimed the following amounts, totalling \$6,824.67, as gratuitous expenditures for provisions and clothing where there is shown on vouchers or supporting papers the words "Treaty of Point Elliott:"

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
1. "Contingencies, Indian Dept."	1877	\$82.79
2. "Incidental Expenses of Indian Service in Oregon and Washington"	1863 to 1871	5,972.39
3. "Incidental Expenses of Indian Service in Washington"	1871 to 1877	708.15
4. "Presents and Provisions to Indians"	1875	61.34

During the period the above disbursements were made, approximately 11.3 percent of the total population of the tribes which were parties to the Point Elliott Treaty were Suquamish Indians. The following table represents 11.3 percent of the amounts disbursed to the Point Elliott Treaty tribes for clothing and provisions under Part II, Section F of the GAO Report:

<u>Year</u>	<u>Suquamish Population</u>	<u>Clothing</u>	<u>Provisions</u>
1859	485	-	-
1860	No figures	-	-
1861	"	-	-
1862	"	-	-
1863	"	-	\$ 1.37
1864	"	\$2.86	311.29
1865	"	-	179.84
1866	"	-	43.74
1867	"	-	-
1868	"	-	0.57
1869	"	7.55	90.35
1870	"	-	37.33
1871	"	0.59	6.27
1872	"	7.74	9.08
1873	"	0.51	10.76
1874	"	-	-
1875	"	-	6.93
1876	"	1.62	43.45
1877	"	-	9.36
		<u>\$20.87</u>	<u>\$750.34</u>

The defendant introduced in evidence a representative voucher to substantiate the above disbursements. (Defendant's offset exhibit No. 1.) Defendant's witness, Mr. Burrell C. Yates, testified that all of the original accounts and records are available in the Federal Records Center at Suitland, Maryland. (Transcript, p. 6.)

From the above, it will be seen that the annual disbursements for clothing range from a low of \$0.51 in 1873 to a high of \$7.74 in 1872,

with none at all in most years. The annual disbursements for provisions range from a low of \$0.57 in 1868 to a high of \$311.29. In view of the small amounts of these disbursements as well as the character of the disbursements as indicated from the representative voucher, the Commission finds that they did not constitute tribal benefits. Accordingly, these disbursements for clothing and provisions are disallowed as gratuitous offsets.

58. Under Part III, Section P of the GAO Report, the defendant has claimed the expenditures below for funeral expenses where the vouchers (Defendant's offset exhibit Nos. 7(a) through 7(d)) indicate that the deceased was a resident of the Port Madison (Suquamish) Reservation.

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
"Support of Indians and Administration of Indian Property"	1940 & 1941	\$158.36

The following table represents the amounts disbursed annually to the Suquamish Tribe under Part III, Section P of the GAO Report:

<u>Year</u>	<u>Suquamish Population</u>	<u>Funeral Expenses</u>
1940	170	\$108.26
1941	172	50.00

These disbursements for funeral expenses are disallowed as gratuitous offsets for the reason stated in the opinion issued this day in Docket Nos. 73 and 151, Seminole Indians of the State of Florida v. United States of America and Seminole Nation of Oklahoma v. United States of America.

59. Under Part III, Section AA of the GAO Report, the defendant claims as gratuitous expenditures the following disbursements, totalling \$6,241.85, for funeral expenses made for Indians of the Tulalip Agency, Washington (of which the Port Madison (Suquamish) Reservation is a part):

<u>Appropriation</u>	<u>Year</u>	<u>Amount</u>
1. "Administration of Indian Property"	1942	\$ 20.00
2. "Relieving Distress and Prevention etc., of Diseases Among Indians"	1916 to 1928	198.56
3. "Support and Civilization of Indians"	1925 & 1926	131.40
4. "Support and Civilization of Needy Indians"	1942 to 1946	1,662.95
5. "Support of Indians and Administration of Indian Property"	1929 to 1942	4,077.25
6. "Support of Indians at Colville and Other Agencies and Joseph's Band Of Nez Perces, Washington"	1922 & 1924	26.69
7. "Welfare of Indians"	1947 to 1950	125.00

The defendant introduced in evidence representative vouchers to substantiate the above disbursements. (Defendant's offset exhibit Nos. 8(a) to 8(e).) Defendant's witness, Mr. Yates, testified that all of the original documents and records are available in the Federal Records Center at Suitland, Maryland. (Transcript, p. 6.)

During the period the above disbursements were made, approximately 4.8 percent of the total population of the tribes within the jurisdiction of the Tulalip Agency were Suquamish Indians. The following table represents 4.8 percent of the amounts disbursed annually under Part III, Section AA of the GAO Report:

<u>Year</u>	<u>Suquamish Population</u>	<u>Funeral Expenses</u>
1919	204	\$ 1.13
1920	196	0.72
1921	198	2.16



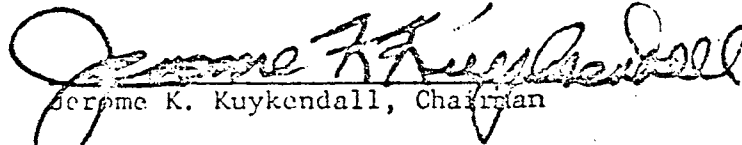
<u>Year</u>	<u>Suquamish Population</u>	<u>Funeral Expenses</u>
1922	200	\$ 2.25
1923	204	4.08
1924	No figures	0.47
1925	183	4.39
1926	195	1.92
1927	162	-
1928	161	-
1929	No figures	6.48
1930	175	8.98
1931	174	6.48
1932	170	5.52
1933	163	0.30
1934	171	3.49
1935	171	16.20
1936	170	2.16
1937	168	32.64
1938	168	29.93
1939	167	22.69
1940	170	39.48
1941	172	19.44
1942	172	21.60
1943	172	19.20
1944	177	17.18
1945	177	20.40
1946	No figures	4.32
1947	"	4.80
1948	"	<u>1.20</u>
	Total	\$299.61

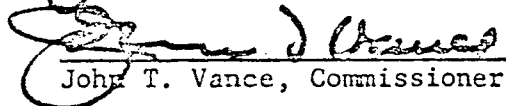
These disbursements for funeral expenses are disallowed as gratuitous offsets for the reason stated in the opinion issued this day in Docket Nos. 73 and 151, Seminole Indians of the State of Florida v. United States of America and Seminole Nation of Oklahoma v. United States of America.

60. In reaching its findings that the annual disbursements for provisions were not large enough to constitute tribal benefits, the Commission has considered the combined total in each year for provisions under Findings of Fact 55 and 57.

CONCLUSIONS OF LAW

On the basis of the evidence of record and the foregoing Findings of Fact, this Commission concludes as a matter of law that the defendant is entitled to no gratuitous offsets under section 2 of the Indian Claims Commission Act, 60 Stat. 1049, 25 U.S.C. §70a, against the interlocutory award of \$42,170.49 previously made to the plaintiff.

  
Jerome K. Kuykendall, Chairman

  
John T. Vance, Commissioner

  
Richard W. Yarborough, Commissioner

  
Margaret H. Pierce, Commissioner

  
Brantley Blue, Commissioner