

BEFORE THE INDIAN CLAIMS COMMISSION

THE CAYUGA NATION OF INDIANS)	
OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 230
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: September 22, 1971

FINDINGS OF FACTIntroductory Statement

This case is before the Commission on completion of a review of the case by the Commission's Investigation Division. The investigation was undertaken at the order of the Commission, dated June 23, 1971, owing to plaintiff's lack of representation by counsel, and following a motion made by defendant (March 11, 1968) to dismiss the case for lack of prosecution. That investigation is the basis for the following findings of fact.

1. The Cayuga Tribe was one of the original tribes of the Six Nations that resided in the State of New York, and which fought on the side of the British during the American Revolution. Subsequent to the revolution, many of the Cayugas moved to Canada where they and a group of other Iroquois were given a reservation on Grand River, Ontario. Of the Cayuga populace, estimated at 1100 in 1778, approximately 700 to 800 members of the tribe removed themselves to the Grand River Reservation and never returned to the United States.

2. In 1789, the State of New York entered into a treaty with those Cayugas remaining in New York. The Cayugas ceded part of their lands to the state but retained certain lands as a reservation. In 1795, the Cayugas entered into a second treaty with the State of New York whereby the land retained by the Cayugas as a reservation was sold to the state. In return for the ceded reservation land, the Cayugas were to receive perpetual annuities of \$2,300.00.

3. Following the execution of the 1795 treaty, a majority of the Cayugas that had remained in New York migrated to Ohio, where they settled along with the Seneca Indians on the Sandusky River. Both tribes joined together and were known as the Senecas of Sandusky. By treaties of 1817 and 1818 (7 Stat. 160, 7 Stat. 178), the Senecas of Sandusky, along with several other tribes, ceded certain lands in Ohio to the United States. In exchange for these cessions, the Senecas of Sandusky were to receive reservation lands, along with perpetual annuity payments of \$1,000.00.

4. In 1831, the Senecas of Sandusky entered into a treaty (7 Stat. 348) with the United States whereby the Indians ceded their Ohio reservation lands (reserved by the 1817 and 1818 treaties) to the United States in exchange for lands west of the Mississippi in the present State of Oklahoma. In addition, the United States was to sell the ceded Ohio lands at auction, and to pay the Senecas of Sandusky the amount received less the costs of the new lands west of the Mississippi.

5. On August 8, 1951, attorney for plaintiff in Docket No. 230 filed a complaint with the Commission, advancing three claims based on the treaties of 1789, 1795, 1817, 1818 and 1831, supra, and alleging claims totaling \$700,000.00 plus interest thereon.

6. The Seneca-Cayuga Tribe of Oklahoma has also filed certain claims which have been docketed as Nos. 84, 341-A and 343. The Seneca-Cayuga Tribe of Oklahoma is a tribal organization recognized by the Secretary of Interior as having authority to represent the Cayuga Tribe and all its respective members in matters relating to claims or rights within the provisions of and under the Indian Claims Commission Act. Six Nations v. United States, Dockets 84 and 300-B, 23 Ind. Cl. Comm. 376, 387-88 (1970). The Seneca-Cayuga Tribe of Oklahoma was organized under the Oklahoma Indian Welfare Act of June 26, 1936, 25 U.S.C. §508 (1964). Although the "Cayuga Nation of Oklahoma," plaintiff herein, is an identifiable group of American Indians, it does not have a tribal organization recognized by the Secretary of Interior. The Seneca-Cayuga Tribe of Oklahoma is the successor in interest to the Cayuga participants in the agreements upon which the claims in this case are based. See id. at 389. All of the Indians that constitute the plaintiff in Docket No. 230 herein are members of the Seneca-Cayuga Tribe of Oklahoma.

7. As stated above in Finding No. 5, plaintiff has asserted three claims against the United States. The substance of plaintiff's claims follow:

Claim I: The first claim is for an accounting by defendant of the \$2,300.00 annuity owed plaintiff by the State of New York under the treaties of February 25, 1789, and July 27, 1795. Plaintiff alleged that the sum of \$100,000 was owed on this claim with 5% interest from the date of taking. The Seneca-Cayuga Tribe in Docket No. 343 has presented claims which duplicate the allegations presented in Claim I of Docket No. 230.

In Cayuga Nation of Indians v. United States, 20 Ind. Cl. Comm. 70, decided November 14, 1968, a motion by defendant for partial summary judgment was granted dismissing plaintiff's (Docket No. 343) claim concerning the 1789 treaty. The claim was dismissed on the grounds that at the time of the agreement between the Cayuga Tribe and the State of New York, the United States had no fiduciary obligations to the tribe. Plaintiff's (Docket No. 343) claim in that case under the 1795 treaty (Claim II) is still pending before the Commission.

Claim II: Plaintiff's second claim in Docket No. 230 is for an accounting for the \$1,000.00 annuity owed plaintiff by the United States under the Treaty of September 29, 1817, and under the Treaty of September 17, 1818. Plaintiff again alleged that the sum of \$100,000.00 was owed on this claim with 5% interest from the date of taking. The Seneca-Cayuga Tribe of Oklahoma in Docket No. 84 has also asked for a general accounting by the United States covering the 1817 and 1818 treaties, among others. Defendant's Exhibit 1 in Docket No. 84 covers the 1817 and 1818 treaty annuities on which plaintiff in Docket No. 230 bases its claim. Plaintiff in Docket No. 84

filed no objections to the accounting for the 1817 and 1818 treaties. Six Nations, *supra*, at 389.

Claim III: The last claim made by plaintiff is for an accounting for the disposition of the Ohio reservation under the Treaty of February 28, 1831. Plaintiff alleged that the sum of \$500,000.00 was owed on this claim with 5% interest from the date of taking. This accounting claim by the plaintiff in Docket No. 230 was also included in the accounting claim made by the plaintiff in Docket No. 84. Defendant's Exhibit 7 in Docket No. 84 covers the 1831 treaty on which plaintiff in Docket No. 230 bases Claim III. Additionally, the Seneca-Cayuga Tribe in Docket No. 341-A asked for an accounting under the 1831 treaty which duplicates Claim III of the Cayuga Nation in Docket No. 230. This accounting claim is still pending before the Commission in Docket No. 341-A.

8. Under an agreement approved by the Commissioner of Indian Affairs, July 10, 1951, Mr. Charles E. Grounds was retained on behalf of the Cayuga Nation of Indians of Oklahoma to prosecute their claims against the United States Government. On August 8, 1951, Mr. Grounds filed plaintiff's petition with the Commission (Docket No. 230). On July 9, 1964, Mr. Grounds' contract with the plaintiff expired and has not been renewed. The last communication from Mr. Grounds was on June 29, 1964, when he submitted a motion for additional time. In a letter dated June 30, 1964, to Mr. Grounds, Chief Commissioner Arthur V. Watkins inquired as to whether Mr. Grounds was still representing Docket No. 230. There was no reply from Mr. Grounds to Commissioner Watkins' letter.

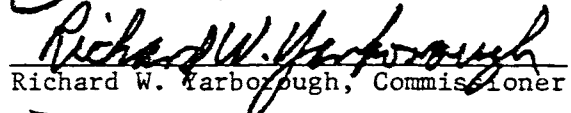
9. On February 23, 1963, the Commission was informed by counsel for plaintiff that Grover Splitlog, chief of the plaintiff tribe, and the individual "taking the initiative in the case," had died. Mr. Splitlog was at one time Secretary-Treasurer of the Seneca-Cayuga Tribe of Oklahoma, and was one of the signers of the ratification of the corporate charter of the Seneca-Cayuga Tribe of Oklahoma. In addition to entering an oral motion to dismiss the claims in Docket No. 230, defendant filed a written motion to dismiss (March 11, 1968) which was served upon Mr. Enos Armstrong and Mrs. Hazel L. Wallace, respective Chairman and Secretary of the General Council of the Cayuga who are the official spokesmen for the tribe. There has been no response from these two members with regard to defendant's motion to dismiss the claims in Docket No. 230.

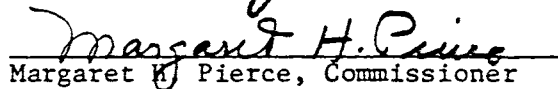
10. After an investigation made by the Commission's Investigation Division, the Commission finds that all of the claims based upon the preceding facts asserted by the plaintiff in Docket No. 230 have been presented to the Commission by the Seneca-Cayuga Tribe of Oklahoma in Docket Nos. 84, 341-A, and 343. The Seneca-Cayuga Tribe of Oklahoma is the successor in interest to the Cayuga Nation of Oklahoma and is actively representing the interests of the Cayugas in the matter of the claims in Docket Nos. 84, 341-A, and 343. Further, the Commission finds that since the expiration of the contract between plaintiff in Docket No. 230 and its attorney on July 9, 1964, the plaintiff has not been active in pursuing these claims. Since the rights and interests of the plaintiff in Docket No. 230 are being represented in Docket

Nos. 84, 341-A, and 343, there is no reason for the Cayuga Nation of Oklahoma to further prosecute the claims in Docket No. 230 and the petition should be dismissed.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Harbrough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner