

BEFORE THE INDIAN CLAIMS COMMISSION

MINNESOTA CHIPPEWA TRIBE, ET AL.,)
ON BEHALF OF THE CHIPPEWA INDIANS)
OF THE MISSISSIPPI AND LAKE SUPERIOR,)

Plaintiffs,)

v.)

Docket No. 18-T

THE UNITED STATES OF AMERICA,)

Defendant.)

Decided: May 31, 1972

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 12, previously entered herein, 19 Ind. Cl. Comm. 341 (1968), and findings numbered 13 through 27 previously entered herein, 25 Ind. Cl. Comm. 157 (1971).

28. The Treaty of August 2, 1847 (9 Stat. 904), which recited the consideration for the cession of Royce Area 268, reads in part as follows:

Article 3. In consideration of the foregoing cession, the United States agree to pay to the Chippewas of Lake Superior seventeen thousand dollars in specie, and to the Chippewas of the Mississippi seventeen thousand dollars in specie; the above sums to be paid at such place or places, and in such manner, as the President shall direct, and to be paid within six months after this treaty shall be ratified by the President and Senate of the United States; and the United States further agree to pay to the Mississippi Indians the sum of one thousand dollars annually for forty-six years; but it is agreed that whenever the Chippewas of the Mississippi shall agree as to the schools to be established, and the places at which they shall be located, the number of blacksmiths and laborers to be employed for them, and shall request the United States to expend from year to year, the annual payments remaining unpaid, in the support of schools, blacksmiths, and laborers, the same shall be expended by the United States for such purposes; and that

Chippewas of full or mixed blood shall be employed as teachers, blacksmiths, and laborers, when such persons can be employed who are competent to perform the duties required of them under this and all former treaties.

29. Article 5 of the Treaty of 1867 (16 Stat. 719) reads in part as follows:

Article 5. It is further agreed that the annuity of \$1,000 a year which shall hereafter become due under the provisions of the third article of the treaty with the Chippewas of the Mississippi bands, of Aug. 2, 1847, shall be paid to the chief, Hole-in-the-Day, and to his heirs

30. There were three treaties the defendant entered into with the Lake Superior and Mississippi Chippewas. They are as follows:

Treaty of July 29, 1837 (7 Stat. 536).

Treaty of October 4, 1842 (7 Stat. 591).

Treaty of August 2, 1847 (9 Stat. 904).

The defendant entered into four treaties with the Mississippi Chippewas either alone or with others than the Lake Superior Chippewas. These treaties are as follows:

Treaty of February 22, 1855 (10 Stat. 1165).

Treaty of March 11, 1863 (12 Stat. 1249).

Treaty of May 7, 1864 (13 Stat. 693).

Treaty of March 19, 1867 (16 Stat. 719).

When Congress appropriated money to carry out the provisions of each of the seven treaties with the plaintiffs, the appropriation acts explicitly identified the particular treaty for which a particular sum was appropriated. Congressional appropriations for the seven treaties

were pooled and disbursed from two funds. Congress appropriated \$397,382.29 for the 1837 Treaty, \$476,600.00 for the 1842 Treaty and \$78,000.00 for the 1847 Treaty. The total of these appropriations (\$951,982.29) was pooled in one fund entitled "Fulfilling Treaties with Chippewas of Lake Superior and the Mississippi." In addition, Congress appropriated \$11,333.34 for the 1837 Treaty, \$113,600.11 for the 1842 Treaty, \$36,000.00 for the 1847 Treaty, \$887,806.76 for the 1855 Treaty, \$33,318.75 for the 1863 Treaty, \$557,798.10 for the 1864 Treaty, and \$193,000.00 for the 1867 Treaty. These sums were pooled in one fund entitled "Fulfilling Treaties with Chippewas of the Mississippi, Act of 22nd February 1855."

31. The General Accounting Report reveals that \$17,000 was paid in cash to the Chippewas of Lake Superior. The sums of \$18,000^{1/} in cash and \$8,948.08 in agricultural aid were paid to the Chippewas of the Mississippi. The respective sums mentioned above were disbursed from the fund entitled "Fulfilling Treaties with Chippewas of Lake Superior and the Mississippi."

The accounting report reveals no appropriations made for the annual payments of \$1,000 for the years 1858 through 1867. However, the sum of \$11,000 was appropriated for back installments, by the Act of March 2, 1867, 14 Stat. 496. Congress appropriated \$1,000 annually for the years 1869 through 1893, or a total of \$25,000 for annuity payments to Chief Hole-in-the-Day or his heirs, as stipulated by Article 3 of the Treaty of August 2, 1847, and later modified by Article 5 of the Treaty of March 19,

^{1/} The \$18,000 disbursement represented the \$17,000 cash payment plus one of the \$1,000 annuity payments.

1867. These amounts aggregating \$36,000 were set up and carried on the books of the Treasury under the heading "Fulfilling Treaties with Chippewas of Mississippi, Act of 22nd of February 1855," and there were disbursed thereunder \$10,000 as payment to the chiefs of the Mississippi, and \$26,000 as payments to Chief Hole-in-the-Day and his heirs, or a total of \$36,000.

32. The following disbursements appear in Statement No. 9 of the General Accounting Report as having been made by the United States for the benefit of the Chippewa Indians of Lake Superior and the Mississippi:

Chippewa Indians of Lake Superior

Article 3

Cash payment	\$17,000.00
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Chippewa Indians of the Mississippi

Article 3

Agricultural aid	\$ 8,948.08
Annuity to Chief Hole-in-the-Day	26,000.00
Cash payment	18,000.00
Payment to chiefs	<u>10,000.00</u>
	<u>\$79,948.08</u>

33. The Commission's findings concerning the listed payments are as follows:

- | | |
|--|-------------|
| a. Cash payment. | \$17,000.00 |
| The defendant is entitled to the allowance as payment on the claim. | |
| b. Agricultural aid. | \$ 8,948.08 |
| There is no provision in the 1847 Treaty concerning payment for this purpose. This item is disallowed. | |

c. Annuity to Chief Hole-in-the-Day. \$26,000.00
 Article 5 of the Treaty of 1867 modified the 1847 Treaty to the extent that the 1867 treaty provided for payments to Chief Hole-in-the-Day. Therefore these payments were authorized expenditures and are allowed as payments on the claim.

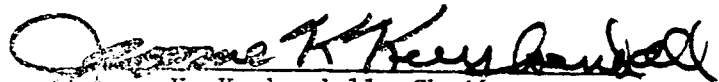
d. Cash payment. \$18,000.00
 The defendant is entitled to the allowance as payment on the claim.


e. Payment to chiefs. \$10,000.00
 The defendant is entitled to the allowance as payment on the claim.

Summary:


Allowed as payments on the claim	\$71,000.00
Disallowed as payments on the claim	\$ 8,948.08

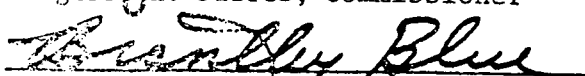
34. The Commission finds that the defendant is entitled to a credit of \$71,000 as payment on the claim against the \$600,000 previously awarded to the plaintiffs. Accordingly, the plaintiffs are entitled to a recovery of \$529,000.00 on behalf of and for the benefit of the Chippewa Indians of the Mississippi and Lake Superior.


 Jerome K. Kuykendall, Chairman


 John G. Vance, Commissioner


 Richard W. Yarborough, Commissioner


 Margaret H. Pierce, Commissioner


 Brantley Blue, Commissioner