

BEFORE THE INDIAN CLAIMS COMMISSION

LOWER SIOUX INDIAN COMMUNITY)	
IN MINNESOTA, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 363
)	
THE UNITED STATES OF AMERICA,)	(Second Claim,
)	Act of 1904)
Defendant.)	

Decided: January 16, 1974

AMENDMENT TO AND ADDITIONAL FINDINGS OF FACT

The Commission makes the following amendment to the findings of fact in this docket numbered 1 through 27, entered June 30, 1973. 30 Ind. Cl. Comm. 463, 498.

Finding No. 7 is amended by the addition of the following sentence, which will appear as the first sentence in the finding:

"Congress unilaterally and without the participation or consent of plaintiffs amended the Agreement of 1901, and as so amended adopted it as the Act of April 27, 1904. 33 Stat. 319."

The Commission makes the following findings of fact which are supplemental to findings 1 through 27, supra.

28. Payment for Lands Taken by Erroneous Survey. Defendant expended \$79,852.00 out of \$80,000 appropriated by the Act of March 3, 1891, 26 Stat. 1010, for lands taken by erroneous survey on various dates between February 23, 1884, and January 7, 1897, described as Items 2a through 2e in Finding No. 9, supra. (Def. Ex. 0-3.) The median date of payment was January 1, 1897.

29. Payment for Lands Taken for School, Agency, Church and Mission Purposes. Defendant paid by warrant dated May 20, 1904, \$52,000 to plaintiffs for the lands taken in June and July 1904, described as Items 3a, 3b and 4, in Finding No. 9, supra. (Def. Ex. 0-1, p. 258; Def. Ex. 0-2.) The \$52,000 was appropriated by Congress as payment for lands ceded to defendant for school, agency, church and mission purposes, as well as for lands granted to the State of North Dakota.

30. Payment for Sully's Hill. The United States paid, by warrant dated July 1, 1910, \$3,120 to plaintiffs for land taken on June 2, 1904, for a public park known as Sully's Hill, described as Item 5 in Finding No. 9, supra. (Def. Ex. 0-1, pp. 183-84.)

31. Payment for Unallotted Lands. Defendant paid, by a series of warrants extending from January 14, 1905, to April 30, 1940, \$375,542.79 to plaintiffs as payment for unallotted lands taken pursuant to the Act of 1904, 33 Stat. 319, described as Item 6 in Finding No. 9, supra. The median date of payment was May 1, 1907. The payment was derived from the sales of lands by defendant under provisions of homestead and town-site laws. (Def. Ex. 0-1, pp. 173, 258-59; Def. Ex. 0-2.)

32. Payments of Interest. Defendant claims credit, as a payment for Item 6 lands, for an additional \$9,696.86, expended by a series of warrants dated March 4, 1907, to January 2, 1914. (Def. Ex. 0-1, pp. 167, 210.) Defendant also claims credit, as a payment for Item 6 lands, for \$327.70 paid to plaintiffs by warrant dated July 21, 1934. (Def. Ex. 0-1, p. 257.)

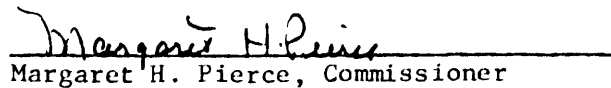
Both of these payments represent interest earned on portions of the payments for unallotted lands (Finding 31) which had been placed in interest bearing accounts, e.g., an account for minor Indians. These payments were not made out of funds appropriated by defendant, but were interest plaintiffs' funds had earned. They are not allowable as payments on the claim.

33. Gratuities. Defendant does not claim offsets for gratuities in this case. However, defendant reserves the right to assert, in any other claim of plaintiffs in this or any other docket before the Commission, any offset for gratuities that defendant may have against plaintiffs now or hereafter. Plaintiffs agree to this proposition.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner