

BEFORE THE INDIAN CLAIMS COMMISSION

THE SIOUX TRIBE OF INDIANS OF THE)	
STANDING ROCK RESERVATION,)	
SOUTH DAKOTA,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 119
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 11, 1975

Appearances:

Marvin J. Sonosky, Attorney for the
Plaintiff.

Richard L. Beal, with whom was
Assistant Attorney General Wallace H.
Johnson, Attorneys for the Defendant.

OPINION OF THE COMMISSION

Vance, Commissioner, delivered the opinion of the Commission.

We are concerned here with a request by plaintiff for rulings on issues of law concerning plaintiff's exception 10 in this accounting action. In a previous decision issued by the Commission on July 11, 1974, 34 Ind. Cl. Comm. 230, we requested further briefing by the parties concerning this exception. Plaintiff filed the requested brief on August 5, 1974, but defendant has failed to respond.

Plaintiff's exception 10 is from defendant's expenditure of Indian Moneys, Proceeds of Labor (IMPL) funds allegedly contrary to statutory limitations. The appropriation act of March 3, 1883, 22 Stat. 582, 590, which authorized IMPL funds, directed that proceeds from "all pasturage

and sales of timber, coal or other product of any Indian reservation be covered into the treasury for the benefit of the tribe." However, by the Act of May 18, 1916, 39 Stat. 123, 159, congressional appropriation was required for all expenditures from "Indian tribal funds" except for: "Equalization of allotments, education of Indian children . . . , per capita and other payments"

The General Accounting Office report filed in this case in 1957 shows expenditures of \$95,677.12 from IMPL funds pursuant to the act of 1883. The accounting report does not show that there was congressional appropriation, as required by the 1916 act, for any of these expenditures. Plaintiff argues that only two expenditures, \$7,369.02 for education and \$3,547.63 for "per capita cash payments," are allowable as falling within the exemptions allowed by the 1916 act, and that therefore the remaining \$84,760.47 in expenditures should be disallowed.

In our 1974 decision we noted that the 1916 statute's exemptions include expenditures for "other payments," and asked the parties to submit briefs on the significance of the term in the statute.

Plaintiff's brief concerning the interpretation of "other payments" in the 1916 act argues that the meaning of the term is controlled by the rule of "ejusdem generis," citing Gooch v. United States, 297 U. S. 124, 218 (1936).

The rule of ejusdem generis holds that general words following a listing of specific things are to be held as applying to the same general kind or class as those specified. Application of the rule to the 1916 act effectuates the intent of the act, i.e., to limit expenditure of tribal funds without congressional authorization.


However, in the course of our consideration of the 1916 act, it has come to our attention that Congress apparently followed the provisions of the act in making its annual appropriations. For example, the appropriation act for the Department of Interior for fiscal year 1926, c. 137, 45 Stat. 200, appropriates sums for "general support of Indians and administration of Indian property . . . , to be paid from the funds held by the United States in trust for the respective tribes" Id. at 222. This portion of the act includes an appropriation of \$59,000 for the Standing Rock Sioux, plaintiff herein.

We have not examined each subsequent appropriation act, but a sampling of such acts indicates that the foregoing format was followed through fiscal year 1947, the last year for which defendant is obliged to account.

However, it appears from the sampling that from fiscal year 1931 onward, there were no longer specific provisions for the Standing Rock Sioux in the aforementioned "general support and administration" portions of the appropriation acts. Nonetheless, the GAO report shows that disbursements were made from plaintiff's IMPL funds throughout the 1925-46 period in question. Consequently, it appears that the GAO report is inadequate to enable us to determine the extent to which defendant may have failed in its obligation to abide by the provisions of the 1916 act.

Accordingly we will order that defendant prepare a supplementary accounting showing the extent to which disbursements from plaintiff's IMPL funds were in accord with the provisions of the 1916 act.

The same issue is raised in Dockets 115 and 117, involving Sioux tribes of other reservations. ^{*/} Appropriate orders will therefore be issued in those dockets as well.

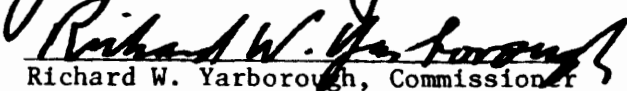


John T. Vance, Commissioner

We concur:




Jerome K. Kuykendall, Chairman



Richard W. Yarborough, Commissioner



Margaret H. Pierce, Commissioner



Brantley Blue, Commissioner

*/ The appropriation acts indicate that the reservations were not all treated in the same manner.