

FILED

230-d

JUL - 7 1952

James Houston Cler
INDIAN CLAIMS COMMISSION

BEFORE THE INDIAN CLAIMS COMMISSION

SAGINAW CHIPPEWA INDIAN TRIBE)
OF MICHIGAN,)

Plaintiff,)

v.)

UNITED STATES OF AMERICA,)

Defendant.)

Docket No. 13-I

Decided July 7, 1952

Appearances:

Arthur B. Honnold,
Attorney for Plaintiff.

Sam T. Carman and Leon J. Moran,
with whom was Mr. Assistant
Attorney General Wm. Amoxy Underhill.

O P I N I O N

PER CURIAM. Plaintiff, on April 7, 1952, filed its motion for leave to file an amended petition "to conform to the proof," and to make one James Strong, a Saginaw Chippewa Indian, a party plaintiff. James Strong was a party to the original case, Docket No. 13, and when the causes of action in No. 13 were ordered separated, and in preparing the petition for the claim now under consideration (which was the 9th cause of action in the original petition), the name of James Strong was inadvertently omitted. So, for the reasons set forth in the opinion in Docket No. 13-I the motion will be allowed as to adding such individual as a party plaintiff.

-2-

After the proof was closed in the above case in March, 1952, plaintiff, as above stated, moved to file an amended petition to conform to the proof.

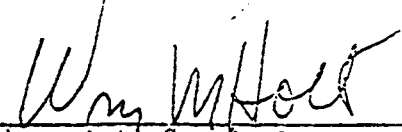
The original petition in this case was clearly a suit for an accounting of the transactions under the treaty between the Saginaw Tribe of Chippewa Indians and the United States, dated January 14, 1837 (7 Stat. 528), under which the United States held in trust 102,400 acres of land located in the State of Michigan, and agreed to sell the same for the benefit of the plaintiff tribe. Proof has been offered by the parties concerning the manner in which the United States handled the trust property so that by the proposed amended petition the plaintiff has merely elaborated on the facts offered by the parties, but in addition thereto, pleads in the proposed amended petition that said treaty was procured under conditions amounting to duress, and prays for a revision of the 1837 treaty, and others, in order to do justice to the Indians. These allegations inject into the issues an entirely new cause of action in that they are contrary to the theory upon which the accounting is based which, under the limitations of the Indian Claims Commission Act, cannot now be considered by the Commission. But however that may be, proof has been offered under the original petition as to the manner in which the government handled the trust lands, and such proof was not in anywise limited by the allegations of the original petition. Moreover, we see nothing in the proposed amended petition which would enlarge the consideration of the Commission in disposing of the plaintiff's claim; that is to say, we believe the proof

-3-

heretofore offered will permit us to make final disposition of the claim under the allegations of the original petition. For these reasons the motion to amend to conform to the proof must be denied.



Associate Commissioner



Associate Commissioner