

BEFORE THE INDIAN CLAIMS COMMISSION

OTOE AND MISSOURIA TRIBE OF INDIANS,)	
)	
Plaintiff,)	
)	
vs.)	Docket No. 11
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: December 11, 1953

ADDITIONAL FINDINGS OF FACT

The Commission makes the following additional findings of fact:

24. During the period from 1833 to June 30, 1946, the United States expended exclusively for the benefit of the Otoe and Missouri Indians from Public funds appropriated for other than treaty or contractual obligations, the following sums, which the petitioner admits are proper offsets or credits against the interlocutory award heretofore made in its behalf:

Agricultural Aid:	
Clearing breaking and fencing land	60.00
Digging wells and well equipment	114.75
Pay of farm laborers	16.00
Seeds, fruit trees and fertilizer	147.50
Agricultural implements and equipment	1,513.43
Clothing	57.05
Expenses, care and sale of timber	10.00
Expenses of Indian delegations	68.00
Fuel and light	98.74
Hardware, glass, oil and paint	13.60
Household equipment and supplies	160.40
Hunting and fishing equipment	17.12
Indian Dwellings	250.38

Indigent Indians:	
Clothing	31.48
Funeral expenses	865.82
Plants	4.39
Seeds	148.70
Subsistence	2,469.57
Livestock:	
Feed and care of	207.75
Purchase of	124.00
Recovery of strayed or stolen	53.32
Mills and Shops: Carpenter shops	126.75
Miscellaneous building materials	37.69
Pay of laborers	192.83
Pay of Mechanics	840.00
Presents to Indians	113.55
Provisions	454.55
Transportation of:	
Agricultural implements and equipment	1,083.27
Clothing	436.22
Feed of livestock	118.63
Fuel	1,417.11
Hardware, glass, oil and paint	760.67
Household equipment and supplies	840.04
Hunting and fishing equipment	4.43
Livestock	16.40
Provisions	20.00
Supplies and equipment for mills and shops	154.27
	<u>\$13,048.41</u>

25. Petitioner has agreed that during the periods of time set forth below the Otoe and Missouri Indians comprised the following percentage of several Indian populations under various superintendencies or agencies, for which defendant made gratuitous expenditures from public funds in the sums listed below, that petitioner Indians benefited therefrom in direct ratio to their percentage of such total populations, and that the amount of such benefits received may be offset as credit against the award previously granted, to wit:

<u>Item</u>	<u>Total Expenditure</u>	<u>Population Percentage</u>	<u>Benefits Received</u>
<u>1831</u> Presents	\$ 358.05	10%	\$ 35.81
<u>1833</u> Pay of interpreters	333.33	11%	36.67
<u>1833-34</u> Presents to Indians provisions	138.28 <u>2,085.05</u> 2,233.33	13%	289.04
<u>1835</u> Presents	486.61	8%	38.93
<u>1854</u> Clothing Expense of Indian delegations Provisions	432.75 3,125.23 <u>54.70</u> 3,612.68	44%	1,589.58
<u>1913</u> Geological Investigations	511.30	23.4%	119.64
<u>1-1-1837 to 6-30-1855</u> Indigent Indians, subsistence Presents Provisions	2,750.00 50.75 <u>359.05</u> 3,159.80	9%	284.38
<u>7-1-1919 to 6-30-1921</u> Transportation of: Agricultural impl. & equip. Clothing Hardware, glass, oils & paints Household equip. & supplies Provisions Supplies & equip. for mills & shops	.96 13.10 19.56 26.67 50.81 <u>13.82</u> 124.92	22%	27.48
<u>7-1-1921 to 6-30-1927</u> Transportation of: Hardware, glass, oil and paints Household equip. and supplies Provisions Supplies & equipment for mills & shops	43.41 .31 .36 <u>2.34</u> 46.42	44%	20.42

<u>Item</u>	<u>Total</u>	<u>Popular</u>	<u>Beneficial</u>
	<u>Expenditure</u>	<u>Percentage</u>	<u>Percentage</u>
<u>7-1-1927 to 6-30-1946</u>			
Agricultural implements & equipment	\$ 56.85		
Hardware, glass, oils and paints	157.51		
Household equipment and supplies	125.11		
Indigent Indians:			
Board	\$ 100.00		
Clothing	333.29		
Feed for livestock	86.86		
Funeral expense	130.00		
Garden equipment and supplies	2,418.64		
Subsistence	4,533.47		
Transportation of clothing	4.20		
Transportation of supplies	<u>140.48</u>	7,746.94	
Mills and shops:			
Carpenter shop	4.74		
Machine shop	11.54		
Paint shop	7.38		
Tin shop	<u>5.98</u>	29.64	
Provisions		1,366.89	
Transportation of:			
Agric. implements & equip.	463.20		
Automobiles & supplies	75.47		
Clothing	1,545.63		
Feed for livestock	48.40		
Hardware, glass, oil and paints	1,670.68		
Household equip. and supplies	2,350.33		
Livestock	631.82		
Provisions	8,932.69		
Supplies & equip. for mills	<u>1.57</u>	<u>15,719.79</u>	<u>6,300.68</u>
	\$25,202.73	25%	\$8,742.68

26. By their acceptance of the Act of August 15, 1876, 19 Stat. 208, on December 23, 1876, the Otoe and Missouri Indians directed the survey, appraisement and sale of 120,000 acres of their reservation lands. Sections 4 and 5 of said Act provides:

"Sec. 4. That the proceeds of said sale shall be placed to the credit of said Indians in the Treasury of the United States, and bear interest at the rate of five per centum per annum which income shall be expended for the benefit of said tribes under direction of the Secretary of the Interior.

"Sec. 5. That the commissioners for the appraisement of said lands shall be paid for their services at the rate of five dollars per day while actually employed, and their actual expenses; which sum, together with the cost of survey, and all other necessary incidental expenses of the execution of this act, shall be paid from the money realized by the sale of said lands."

27. By their acceptance of the Act of March 31, 1881, 21 Stat. 380, on May 14, 1881, the Otoe and Missouri Indians directed the survey, appraisement and sale of the balance of their reservation land. Sections 4 and 5 of said Act provides:

"Sec. 4. That the proceeds of the sale of said lands shall be placed to the credit of said Indians in the Treasury of the United States, and shall bear interest at the rate of five per centum per annum, which income shall be annually expended for the benefit of said Indians under direction of the Secretary of the Interior.

"Sec. 5. That the Secretary of the Interior may, with the consent of the Indians, expressed in open council, secure other reservation lands upon which to locate said Indians, cause their removal thereto, and expend such sum as may be necessary for their comfort and advancement in civilization, not exceeding one hundred thousand dollars, including cost of surveys and expense of removal, the same to be drawn from the funds arising from the sale of their reservation lands under the act approved August fifteenth, eighteen hundred and seventy-six."

28. On June 30, 1946, there remained \$979.37 in a fund entitled "Removal and Support of Otoes and Missourias" to which \$99,975.00 had been transferred in compliance with Section 5, Act of March 31, 1881, above cited. (Finding 27). Surveying expenses of \$18.00 incurred in 1894 were properly payable from the Removal Fund.

29. On April 21, 1904, Congress, by 33 Stat. 189, directed:

"That the Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to pay per capita to the following Indian tribes, all funds now to their credit in the United States Treasury or such part of such funds as he may deem necessary for their best interests and any other funds that may hereafter be received for their credit: Provided: That he may retain a sufficient amount of their trust funds, which at the present rate of interest, will yield sufficient income for the support of their schools and for pay of employees: Provided further, That the shares of minors shall remain in the Treasury until they become of age and the shares of incompetents also be retained in the Treasury, and the interest of such shares may, in the discretion of the Secretary of the Interior, be paid to the parents or legally appointed guardians ***, namely, L'Anse and Vieux de Sert Chippewa, Michigan; Omahas, Nebraska; Otoe and Missouri, Oklahoma, ***."

30. The United States paid interest on funds of the Otoe and Missouri Tribe held in the United States Treasury by deposit of \$962,875.67 to a fund entitled "Interest on Otoe and Missouri Fund", under authority of Sections 4, 19 Stat. 203 and 21 Stat. 380 (Finding 26). It also deposited therein \$4,515.45 as interest on special deposits, sale of merchandise and other Indian money. \$3,778.04 was transferred to a fund entitled "Interest on Otoe and Missouri (Minors' Fund)", and \$384,258.96 was paid out in per capita payments under the Act of April 21, 1903 (Finding 29). A balance of \$1,071.49 remained on June 30, 1946. Additional interest payments were deposited to the "Interest on Otoe and Missouri Minors' Fund" account, and \$70,591.05 was paid therefrom in per capita payments, leaving .04 cents on deposit in that account on June 30, 1946.

31. Following provisions for payment of specific annuities to the Otoe and Missouri Tribe as consideration for the cession therein made, the Treaty of March 15, 1854, 10 Stat. 1038, Article 4, provides:

"All which several sums of money shall be paid to the said confederated tribes, or expended for their use and benefit under the direction of the President of the United States, who may, from time to time, determine, at his direction, what proportion of the annual payments, in this article provided for, if any, shall be paid to them in money, and what proportion shall be applied to and expended, for their moral improvement and education; for such beneficial objects as in his judgment will be calculated to advance them in civilization; for buildings, opening farms, fencing, breaking land, providing stock, agricultural implements, seeds, etc., for clothing, provisions and merchandise; for iron, steel, arms and ammunition; for mechanics, and tools; and for medical purposes."

32. Charges of \$1,040.53 for transporting supplies for agricultural aid which are claimed by defendant as offset credits here, include charges for transporting gratuitous items, as well as transportation of merchandise purchased with annuity payments under direction of Article 4, Treaty of 1854.

33. Expenses for the transportation of miscellaneous building material were reported as a gratuity by the Agent in charge of the Otoe and Missouria Tribe who was most likely to know the true nature and circumstance of the expenditure. Of said total charge of \$111.98, \$10.50 was incurred during the period when their beneficial expenses were under the direction of said Indians payable from their interest funds.

34. The course of transactions between plaintiff and defendant during the period here involved has not been such that the defendant is precluded from setting up as against the award previously entered against it any credits or offsets which it may have that are not prohibited by 60 Stat. 1049.