

BEFORE THE INDIAN CLAIMS COMMISSION

THE POTTAWATOMIE TRIBE OF INDIANS,)
 THE PRAIRIE BAND OF THE POTTAWATOMIE)
 TRIBE OF INDIANS, and WILLIAM EVANS,)
 ELLEN NOGAHNKOUK VIEUX, and LISA)
 (NAGONBA) CLAYBEAR, as individuals-)
 plaintiff,)

Plaintiffs,)

v.)

Docket No. 15-B

THE UNITED STATES OF AMERICA,)

Defendant.)

and

CITIZEN BAND OF POTAWATOMI INDIANS)
 OF OKLAHOMA,)

and

POTAWATOMI NATION, represented by)
 CITIZEN BAND OF POTAWATOMI INDIANS)
 OF OKLAHOMA, and A. B. PECORE,)
 members of such Band and such)
 Nation,)

and

DAN NADEAU, MAY FAIRCHILD and)
 A. B. PECORE, on the relation of)
 POTAWATOMI NATION,)

Petitioners,)

v.)

Docket No. 111

THE UNITED STATES OF AMERICA,)

Defendant.)

Decided: August 8, 1955.

ADDITIONAL FINDINGS OF FACT - ON OFFSETS

The Commission makes the following additional findings of fact:

39. Following the treaties of November 15, 1861 and February 27, 1867, the members of the Pottawatomie Tribe of Indians were separated into two groups known as the Prairie Band in Kansas and the Citizen Band in Oklahoma. On July 18, 1873, for the purpose of settling all matters of difference between them arising under said treaties, the Prairie Band and the Citizen Band entered into a written agreement in which they agreed to accept and admit that the original enrollment made under the provisions of said treaties containing 2,180 names, was correct. It was further agreed that of that number, 1,400 were members of the Citizen Band and 780 were members of the Prairie Band, and that the entire assets of the Pottawatomie Nation as they existed at the time of said original enrollment were to be divided on the basis of 780/2180ths to the Prairie Band and 1400/2180ths to the Citizen Band.

40. Between August 7, 1868 and June 30, 1951, the United States, without treaty or contractual obligation to do so, expended gratuitously from public funds certain amounts aggregating \$41,981.10, which the defendant now presents for offset credit against the award heretofore entered against it in these consolidated cases. Of this total, \$11,285.26 represents separate offsets claimed against the Prairie Band, and \$30,695.84 represents separate offsets claimed against the Citizen Band. The classifications and amounts of such claimed credits are divided into six groupings, of which two groups involve the Prairie Band and four the Citizen Band, as follows:

Prairie Band

1. 100% Charges: (August 7, 1868 to June 30, 1951)

Agricultural aid: Seed, fruit trees and fertilizer	\$ 355.48	
Agricultural Implements and Equipment	300.00	
Clothing	498.75	
Expenses of Indian Delegations	332.25	
Funeral Expenses	930.29	
Livestock:		
Feed and care of	58.95	
Purchases of	39.00	
Miscellaneous building material	488.13	
Provisions	5,720.90	
Surveying and allotting, Kansas reservation	<u>1,101.85</u>	\$ 9,825.60

2. 53.1% Charges: (Prairie Band and other
Indians under Kansas Agencies from
July 1, 1919 to June 30, 1951)

Agricultural Aid: Seed, fruit trees and fertilizer	1,737.50	
Provisions	568.65	
Surveying and allotting	114.70	
Transportation of:		
Clothing	234.03	
Dried sheep pelts	94.00	
53.1% of total expenditures of	<u>2,748.08</u>	<u>1,459.66</u>
Total Charges Against The Prairie Band		\$11,285.26

The Citizen Band

3. 100% Charges: (August 7, 1868 to June 30, 1951)

Funeral expenses	347.05	
Pay and Expenses of Land Appraiser	10.70	
Provisions	<u>603.90</u>	961.65

4. 29.9% Charges: (Citizen Band and other
Indians under Sac and Fox Agency from
July 1, 1877 to June 30, 1901)

Expenses of Indian Delegations	70.95	
Livestock: Purchase of	2,720.00	
Pay and Expenses of Land Appraisers	895.55	
Provisions	842.04	
29.9% of total expenditures	<u>4,528.54</u>	1,354.03

5. 58.22% Charges: (Citizen Band and other Indians under the Shawnee Agency from July 1, 1919 to August 31, 1947)

Agricultural Aid: Seed, fruit trees and fertilizer	\$ 458.00	
58.22% of total expenditures of	<u>458.00</u>	\$ 266.65

6. 15.5% Charges: (Citizen Band and other Indians under the Western Oklahoma Consolidated Agency, later the Southern Plains Agency of Oklahoma, between September 1, 1947 and June 30, 1951)

Indigent Indians:		
Boarding home care	7,362.40	
Cash payments for relief	170,814.56	
Clothing	53.40	
Funeral expenses	304.20	
Subsistence	<u>2,842.92</u>	
15.5% of total expenditures of	\$181,377.48	<u>28,113.51</u>
Total Charges Against the Citizen Band		\$30,695.84

Offsets Allowed in These Consolidated Cases Against the Prairie Band

41. The defendant, without treaty or contractual obligations to do so, expended gratuitously for the benefit of the Prairie Band of the Pottawatomie Tribe of Indians during the period from August 7, 1868 to June 30, 1951, public funds for the purposes and in the amounts following, which are proper offsets against the award heretofore granted:

Clothing	\$ 308.45
Expenses of Indian Delegation	332.25
Funeral Expenses	930.29
Misc. Building Materials	488.13
Surveying and Allotting Kansas Reservation	<u>1,101.85</u>
Total	\$ 3,160.97

42. During the period from July 1, 1919 to June 30, 1951, the Prairie Band, the Iowa, Kickapoo and Sac and Fox Tribes or Bands of

Indians were under the jurisdiction of the following Indian Agencies in Kansas: Pottawatomie Agency 1921 to 1926; the Haskell Institute from 1927 through 1934, and again under the Pottawatomie Agency since 1935. The General Accounting Office Report (pp. 388, 389) shows the number of Indians in each tribe or band under the various agencies in the years 1920 through 1945. During the years 1938 through 1945 the members of the Prairie Band comprised, on the average, 53.1 percent of the entire Indian population under the jurisdiction of the Pottawatomie Agency in Kansas.

43. During the years 1938 through 1945 the defendant gratuitously expended for the benefit of the Indians under the Pottawatomie Agency in Kansas, including the Prairie Band, the sum of \$1,855.40 for the following purposes:

Agricultural Aid: Seed, fruit trees and fertilizer-	\$1,737.50
Provisions	117.90
Total	<u>\$1,855.40</u>

That 53.1 percent of the \$1,855.40, or \$985.21, is chargeable as an offset against the Prairie Band for its proportionate share of the benefits received from such expenditures.

Offsets Allowed Against the Citizen Band

44. During the period from August 7, 1868 to June 30, 1951, the defendant without treaty or contractual obligations to do so, expended gratuitously for the benefit of the Citizen Band of the Pottawatomie Tribe of Indians, public funds for funeral expenses the sum of \$347.05, which is a proper offset against the Citizen Band's share of the award heretofore entered.

45. During the period from July 1, 1877 to June 30, 1901, the Citizen Band, the Sac and Fox Tribe of the Mississippi, the Kansas Potawatomi Indians, the Kickapoos and other unidentified Indians, were under the jurisdiction of the Sac and Fox Agency in Oklahoma. The General Accounting Office report (pp. 425, 426) shows by years the number of Indians in each tribe or band under said Agency. During the years 1882 and 1883 the Citizen Band comprised approximately 29.9 percent of the entire Indian population under said Agency.

46. During the years 1882 and 1883 there was expended for the purchase of flour for the use of the Indians under the Sac and Fox Agency, the total sum of \$842.04. These expenditures were made gratuitously by defendant and it is entitled to an offset against the Citizen Band on its share of the award of 29.9 percent of the \$842.04, or \$251.76.

47. During the period from July 1, 1919 to August 31, 1947, the Citizen Band, the Kickapoos, the Absentee Shawnees, the Iowa, and the Sac and Fox Indians were under the jurisdiction of the Shawnee Agency in Oklahoma. The General Accounting Office Report (p. 471) shows that during 1938 the Citizen Band comprised 58.2% of the total Indian population under said Agency.

48. In 1938, the defendant expended the sum of \$458.00 for the purchase of garden seed for Indians under the Shawnee Agency. This expenditure was made gratuitously by defendant and it is entitled to an offset of 58.2 percent of the \$458.00, or \$266.55 against the Citizen Band's share of the award.

49. We find that the course of transactions between the United States and the Prairie and Citizen Bands during the period here involved was such that the Commission may in good conscience allow the defendant, as credits upon the award previously entered against it, such gratuitous expenditures made by it as the Commission has found to constitute proper offsets.

50. To summarize, the defendant is entitled to offset against the award hereinbefore entered against it the sum of \$5,081.54, which is separately chargeable, as follows:

(1) Against the Prairie Band

Under Finding No. 41	\$3,160.97
Under Finding No. 43	<u>985.21</u>
Total	\$4,146.18

(2) Against the Citizen Band

Under Finding No. 44	\$ 347.05
Under Finding No. 46	251.76
Under Finding No. 49	<u>266.55</u>
Total	\$ 865.36
Total Offsets	\$5,011.54

EDGAR E. WITT
Chief Commissioner

LOUIS J. O'MARR
Associate Commissioner

WM. M. HOLT
Associate Commissioner