

## BEFORE THE INDIAN CLAIMS COMMISSION

THE MIAMI TRIBE OF OKLAHOMA	)	Docket No. 67 (Consolidated)
also known as THE MIAMI TRIBE,	)	with Dockets Nos. 124, 314
et al.,	)	and 337
	)	
Petitioners,	)	
	)	
vs.	)	
	)	
THE UNITED STATES OF AMERICA,	)	Intervenors:
	)	Docket Nos. 15-D, 29-B, 89,
Defendant.	)	311 and 315

\* \* \* \* \*

FINDINGS OF FACT ON OFFSETS

The Commission makes the following findings of fact which are supplemental to Findings Numbered 1 to 5, inclusive, heretofore made on March 26, 1954 (Vol. 2, Ind. Cls. Comm., p. 617-634), and Findings Numbered 6 to 46, inclusive, heretofore made on September 17, 1956 (Vol. 4, Ind. Cls. Comm., p. 346-397):

Supplemental Findings

47. The Miami Tribe as it existed on October 6, 1818, is now divided into two separate and distinct groups of Miami Indians, being the petitioners in Dockets Nos. 67 and 124, respectively. In 1818 the Miami Tribe had a membership of approximately 1,000 souls.

48. Between October 6, 1818, and August 31, 1947, the United States, without treaty or contractual obligation to do so, expended gratuitously

from the public funds certain amounts aggregating \$24,925.70, which the defendant now presents for offset credit against the award heretofore entered against it in these consolidated cases. These claimed expenditures are presented in five separate lists or groupings, as follows:

- (1) Expenditures incurred -- between October 6, 1818 and July 29, 1872, involving only the Miami Tribe of Indians

Expenses of Indian Delegations.....	\$1,758.00	
Hunting and Fishing Equipment.....	36.12	
Indigent Indians, Board.....	6.50	
Feed and care of Livestock.....	5.00	
Presents to Indians.....	3.94	
Provisions.....	<u>7,160.89</u>	\$8,970.45

- (2) Expenditures incurred between January 1, 1823, and December 31, 1831, involving Indians under the jurisdiction of the Fort Wayne and Wabash Agency in Indiana:

Pay to Blacksmiths.....	\$2,994.24	
Provisions.....	<u>247.28</u>	\$3,241.52

- (3) Expenditures occurring between June 1, 1826, and October 31, 1826, concerning Miami and Pottawatomie Indians attending the treaty council at Camp Paradise, Indiana:

Presents to Indians.....	\$ 140.60	
Provisions.....	<u>3,386.90</u>	\$3,527.50

- (4) Expenditures occurring between January 1, 1832, and December 31, 1834, benefitting Indians under the jurisdiction of the Indiana Agency:

Presents to Indians.....	\$ 239.50	
Provisions.....	<u>183.25</u>	\$ 422.75

- (5) Expenditures occurring between July 1, 1870, and August 31, 1947, involving all the Indians under the jurisdiction of the Quapaw Agency:

Expenses of Indian Delegations.....	\$ 2.87	
Hunting and Fishing Equipment.....	9.00	
Indigent Indians:		
Board.....	33.20	
Funeral Expenses.....	21.24	
Surveying and Allotting.....	5.00	
Provisions.....	5,055.57	
Transportation of Provisions.....	<u>3,636.60</u>	\$8,763.48

49. The petitioners have each conceded that the following items appearing in the first list or group of expenditures set out in Finding No. 48, next above, are properly chargeable to petitioners, and should be allowed the defendant for use as offset credit against the award entered in these consolidated dockets on September 17, 1956, to-wit:

Expenses of Indian Delegations.....	\$1,758.00	
Hunting and Fishing Equipment.....	36.12	
Provisions .....	<u>50.00</u>	\$ 1,844.12

50. Between March and June, 1872, inclusive, the defendant paid from public funds a total of \$1,758.00 in satisfaction of living expenses incurred while away from home and traveling expenses to and from Washington, D. C. and their home in Kansas, incurred by a delegation of the Western Miami Indians. During April, 1872, said delegation filed a printed instrument with the Senate Committee on Indian Affairs (Def. Ex. No. 47, Docket No. 253, Miami Tribe vs. United States) entitled "Argument of the Western Miami Delegation." In said instrument it was recited that the Western Miamies had on January 15, 1872, agreed to purchase land for their future home in the Indian Territory from the Confederated Wea, Peoria, Kaskaskia and Plankeshaw Indians, which agreement needed only governmental approval, and legislation looking to the removal of the Western Miamies from Kansas and their union with the named confederated tribes was solicited. The instrument also contained strongly worded objections to a bill then pending before Congress providing for the abolishment of the tribal relations of the Miami Indians, and granting to certain residents of Indiana who claimed to be Miami Indians permission to participate in the tribal property of the Western Miami Indians. The petitioners, Docket No. 67, are the former "Western Miami Indians of Kansas. Both petitioners have conceded that these expense items constitute gratuitous expenditures properly allowable to the defendant for offset credit purposes.

51. Article 5 of the Treaty of November 6, 1838, 7 Stat. 569, between the United States and the Miami Tribe of Indians, provides:

The said Miami Tribe of Indians, being anxious to pay all their just debts, at their request, it is stipulated, that immediately after the ratification of this treaty, the United States shall appoint a commissioner or commissioners, who shall be authorized to investigate all claims against said tribe \* \* \* and to pay such debts as \* \* \* shall be proved to his or their satisfaction, to be legal and just.

Article 6 of said treaty provides that a part of the consideration passing to said Miami Tribe of Indians under that treaty shall be applied to the payment of such debts as were found by said commissioner or commissioners to be just and legal obligations of the Miami Tribe of Indians.

52. By Act of May 20, 1826, Congress appropriated \$15,000 to defray the expenses of negotiating treaties with Indian tribes claiming lands in the State of Indiana, including the Miami and Pottawatomie tribes. Lewis Cass, J. B. Ray and John Tipton were thereafter appointed Treaty Commissioners to carry out the provisions of this Act, and on October 23, 1826, they reported the results of a council held by them with the Miami and Pottawatomie tribes at Camp Paradise Springs, Indiana, saying in part:

Goods have been distributed to them (as will appear by the fourth article of the treaty) to the amount of \$30,547.71 and an additional quantity to the amount of \$900 has been promised them. Without this provision, no treaty could have been formed. The Indians always arrive at our treaty grounds poor and naked. They expect to receive some part of the consideration at the moment of signing the treaty. This expectation, in fact, furnishes the only motive for their attendance, and much the most powerful motive for their assent to the measures proposed to them. A reduction in the annuity is effected by these payments, much greater in value than the amount distributed. The sum appropriated for these treaties (15,000) was certainly intended to defray the necessary expenses attending the convocation of the Indians and the general business of the negotiation. It could not have been expected that any part of the consideration given for the land should be met from this fund. It

was barely sufficient, with the most rigid economy, to pay the actual claims for services and supplies essential to the subsistence of the multitude assembled here, to the preservation of the necessary policy, and to the successful result to which we have ultimately attained. (Cl. Ex. No. 40, Dkt. No. 67)

6

53. Between October/1818, and July 29, 1872, defendant, without contractual or treaty obligation to do so, expended gratuitously for the benefit of the Miami Tribe of Indians certain public funds for the purposes and in the amounts following, which are proper offsets against the award heretofore granted in these consolidated dockets:

Provisions for the Indians while receiving annuity payments (including \$50 conceded by petitioners in both dockets to be proper offset credit)..... \$ 2,597.97

Provisions for the Indians while assembled per Article 5, Treaty of November 6, 1838..... 2,865.24  
\$ 5,463.21

54. From January 1, 1823, to December 31, 1831, the petitioner Indians resided within the jurisdiction of the Fort Wayne and Wabash Agency, which Agency had attached to it some 5,000 Indians in all during this period. Between January 1, 1832 and December 31, 1834, petitioner Indians comprised .427% of all the Indian population within the jurisdiction of the Indiana Agency.

After July 1, 1870, the petitioners in Docket No. 67 resided under the Quapaw Agency. In 1871 there were 1212 Indians belonging to other tribes and but 33 Miami Indians under this Agency. Between 1871 and 1890, inclusive, the Indian population of the Agency varied from 111 to 1245 individuals representing from seven to ten different and separate tribes, bands or groups of Indians. In 1883 there were 1356 Indians at this Agency, representing eight separate tribes, bands or groups of Indians.

55. The course of transactions between the petitioners in these consolidated dockets and the United States during the periods here involved has been such that the Commission finds it may in good conscience allow the defendant to credit upon the award heretofore entered against it all of the gratuitous expenditures made by it on behalf of the petitioner Indians which are properly allowable under the provisions of Section 2, 60 Stat. 1049.

56. In summarization, the defendant may set off against the award of \$3,218,625.00 entered in these consolidated dockets on September 17, 1956, the following sums, to-wit:

Consideration received by petitioners per stipulation of parties.....	\$280,500.00	
Provisions for Indians while receiving annuities, including \$50 conceded by petitioners in Docket No. 67 to be proper offset credit.....	2,597.97	
Provisions for Indians while assembled per Article 5, Treaty of November 6, 1838.....	2,865.24	\$285,963.21

and defendant may also offset against the proportionate share of the petitioners in Docket No. 67 which remains after the application of said offset credit of \$285,963.21, the additional credits of:

Expense of Indian delegations.....	1,758.00	
Hunting and fishing equipment.....	<u>36.12</u>	\$ 1,794.12

or a total off-set credit of \$287,757.33.

Edgar E. Witt  
Chief Commissioner

Louis J. O'Marr  
Associate Commissioner

Wm. A. Holt  
Associate Commissioner