

BEFORE THE INDIAN CLAIMS COMMISSION

RED LAKE, PEMBINA AND WHITE EARTH)
BANDS, ET AL.,)

Petitioners,)

v.)

THE UNITED STATES,)

Defendant.)

Docket No. 18-A

TURTLE MOUNTAIN BAND OF CHIPPEWA)
INDIANS,)

Petitioners,)

v.)

THE UNITED STATES,)

Defendant.)

Docket No. 113

THE LITTLE SHELL BAND OF CHIPPEWA)
INDIANS, ET AL.,)

Petitioners,)

v.)

THE UNITED STATES,)

Defendant.)

Docket No. 191

Decided: June 15, 1961

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 52, heretofore made herein:

53. In its interlocutory order of May 21, 1958, the Commission provided that the award might be amended to the extent justified by subsequent proof as to the acreage of lands within the subject area, granted, or in lieu thereof scrip issued, to male adult mixed-bloods of the Red Lake and Pembina Bands as provided by Article 8 of the October 2, 1863 Treaty, as modified by Article 7 of the April 12, 1864 Treaty, or as to the 1280 acres of land that were to be set aside to the two chiefs of the Bands, as provided in Article 9 of the 1863 Treaty.

As disclosed by the evidence of record, and as conceded by petitioners, the total acreage within the ceded area patented with Red Lake and Pembina land scrip and set aside to the two chiefs under the 1863 and 1864 treaties was:

Total acreage patented with half-breed scrip	74,472.64
Less deductible acreage erroneously patented to individuals in excess of 160 acres each	<u>100.77</u>
Net allowable acreage patented with scrip	74,371.87
Acreage reserved to Chief Moose Dung	640.00
Acreage reserved to Chief Red Bear	<u>640.00</u>
Total	75,651.87

Using the average per acre valuation of Royce Area 445 as previously determined by the Commission (\$0.45 per acre), the 75,651.87 acres had a value of \$34,043.34. The Commission finds that this sum was part of the consideration provided for and paid under the Treaties. This sum will therefore be deducted from the award in this case.

54. The Commission previously determined that \$609,480.36 was the total sum disbursed pursuant to treaty stipulations. Defendant has urged

that this figure should be increased by some \$46,457.71, that being the total sum of fifteen categories which allegedly included disbursements made in compliance with the two treaties. Our findings with respect to each of these categories are as follows:

(a) \$162.45 - Planting and harvesting crops

During the year 1876 (all references hereinafter will be to fiscal years, unless otherwise noted) this sum was expended for cutting 54 3/4 tons of hay for the Red Lake and Pembina Chippewas. Defendant claims this expenditure was paid to discharge obligations created by the third Article of the Treaty of October 2, 1863.

As previously set forth in our Findings of Fact Nos. 27 and 28, Article 3 of the 1863 Treaty provided for payment to the Red Lake and Pembina Bands of an annuity of \$20,000 a year for twenty years. However, the supplementary Treaty of 1864 provided in Article 2 that, in lieu of the annuity provided for in Article 3 of the 1863 Treaty, the United States should pay annually, during the pleasure of the President, the sum of \$10,000.00 to the Red Lake Band and \$5,000.00 to the Pembina Band.

The funds necessary to make payment in 1876 of the treaty obligations were appropriated by Act of March 3, 1875, 18 Stat. 420. The purpose of that appropriation act was to pay expenses of the Indian Department, fulfill treaty stipulations with the various Indian tribes and to supply goods and supplies for the Indian service. Under the heading "Chippewas of Red Lake and Pembina Tribe of Chippewas" various amounts were appropriated under seven separate paragraphs for fulfillment of

treaty obligations. The eighth paragraph was "For transportation of annuity goods and provisions, and iron and steel for blacksmiths, for the Chippewas of Red Lake and Pembina Tribe, two thousand dollars" (18 Stat. 420, 427). The first and second paragraphs were the only ones which referred to the third Article of the 1863 Treaty. They read:

"For this amount, as annuity, to be paid per capita to the Red Lake band of Chippewas, during the pleasure of the President, per third article of treaty of October second, eighteen hundred and sixty-three and second article of supplementary treaty of April twelfth, eighteen hundred and sixty-four, ten thousand dollars.

For this amount, to the Pembina band of Chippewas, per same articles of same treaties, during the pleasure of the President, five thousand dollars."

The General Accounting Office has not reported any disbursements in 1876 under the 1863 treaty but has reported that the disbursements under Article 2 of the 1864 Treaty for the year 1876 were:

Annuity cash - Red Lake Bands	\$10,000.00	
Annuity cash - Pembina Bands	3,676.83	
Provisions for Pembina Bands	1,240.90	(Def. Ex. No. 81, page 36)

Under a "miscellaneous purposes" category the following is listed for 1876:

Expenses of paying annuities	3.00	
Miscellaneous agency expenses	379.96	
Transportation, etc. of annuity supplies	1,241.81	(Def. Ex. No. 81, page 37)

The \$379.96 listed originally as miscellaneous agency expenses apparently is comprised of the \$162.45 now listed as "planting and harvesting crops" and \$218.26 under a "feed and care of livestock" category. There is, however, no apparent explanation for the 75 cent discrepancy between this total (\$380.71) and the figure of \$379.96 previously listed.

The Commission finds that the evidence fails to support defendant's contention that this item was disbursed in payment of any treaty obligation.

(b) \$10,030.00 - Expenses of Indian delegations

The disbursements in this category were for transportation and other necessary expenses of a delegation of Red Lake and Pembina Indians to and from Washington, D. C., in connection with negotiations of the supplementary Treaty of 1864. There are no provisions in either treaty providing for this payment as part of the consideration for the cession of lands involved in this case. This item was not disbursed in payment of any treaty obligation.

(c) \$27.45 - Household equipment and supplies

This expenditure was made in 1869. Defendant claims this item was to discharge obligations arising under Article 3 of the 1863 Treaty. We have discussed this Article in subparagraph (a) above. The General Accounting Office report shows only the following disbursements in 1869 under the 1863 Treaty:

Article 5	
Houses for chiefs	\$500.00
Article 6	
Expenses of board of visitors	382.50 (Def. Ex. 81, p. 27)

Under Article 2 of the 1864 Treaty (which provided for the payments in lieu of the Article 3 1863 Treaty annuity) the General Accounting Office report shows, for 1869:

Article 2	
Annuity cash - Red Lake Bands	\$10,000.00
Annuity cash - Pembina Bands	5,000.00 (Def. Ex. 81, p. 32)

These disbursements represented the entire sums appropriated under Article 2 of the 1864 Treaty for 1869.

The voucher submitted as supporting the inclusion of this category lists some twenty-one items of household equipment totaling \$489.35, less \$2.00 for an error in the computation. Of the items listed defendant claims that the candles, matches, and soap, in a total amount of \$27.45, should be included in this category. There is nothing on the face of the voucher to support defendant's contention. In view of the evidence on this category, the Commission finds this item not to be allowable as payment of any treaty obligation.

(d) \$1,213.50 - Hunting and fishing equipment

The items under this category are listed as:

1869 - 1 keg powder	
2 sacks shot	\$13.50
1877 - 340 lbs gilling	
twine for nets	400.00
1878 - 459.4 lbs gilling	
twine for nets	400.00
1879 - 493.8 lbs gilling	
twine for nets	<u>400.00</u>
Total	\$1,213.50

(Def. Ex. 0-3, pp. 348, 357, 358, 359)

In its requested findings and brief defendant states these disbursements were "from public funds appropriated to discharge obligations created by the third article of the supplementary Treaty of April 12, 1864, as provided in the appropriation Acts of March 3, 1875, 18 Stat. 420, 427, and

August 15, 1876, 19 Stat. 176, 180." (Def. Requested Findings of Fact and Brief re Treaty Claims and Offsets, pp. 14, 15).

Defendant does not cite any appropriation covering the year 1869, in which a disbursement of \$13.50 is now claimed. Defendant's citation of the Act of March 3, 1875 (18 Stat. 420, 427) relates to an appropriation for the year 1876, for which no item is claimed in this category.

The appropriation for 1877 lists, in paragraph 3, "For thirteenth of fifteen installments, for the purpose of supplying the Red Lake band of Chippewas with gilling twine . . . per third article of supplementary treaty of April twelfth, eighteen hundred and sixty-four, eight thousand dollars." (19 Stat. 176, 180). The General Accounting Office has listed under Article 3 of the 1864 Treaty, for 1877

"Annuity goods - Red Lake Bands \$8,131.57" (Def. Ex. 81, p. 38).

In the final paragraph of the appropriations for the Red Lake and Pembina Chippewas, there is listed an item of \$400.00 for gilling twine for nets. This item cites no treaty provision under which it was appropriated. The General Accounting Office originally included this item as for "miscellaneous purposes" (Def. Ex. 81, p. 39).

The appropriations for 1878 and 1879 similarly included, as an extra item, \$400.00 for gilling twine.

In view of the evidence pertaining to the items in this category, the Commission finds that these expenditures were not paid to discharge any treaty obligations.

(e) \$488.26 - Feed and care of livestock

Defendant claims the following expenditures were made to discharge obligations created by the third articles of the 1863 and 1864

articles:

1865	48 33/56 bu. corn	\$70.45
1869	213 lbs oats	185.41
	28 grain sacks	14.00
1875	2,765 lbs bran	22.12
	2,899 lbs feed	60.96
	21 11/32 bu. oats	15.56
	1 bbl. salt	2.75
1876	9 tons and 60 lbs hay	37.75
	1,045 lbs feed	25.88
	75 11/16 bu oats	45.99
	2 bbl. salt	5.20
	146 lbs. corn	2.19

In subparagraph (a) above we referred to the fact that the third article of the 1863 treaty was amended by the second article of the 1864 treaty. The third article of the 1864 treaty provided for the expenditure annually for fifteen years of \$8,000.00 for the Red Lake Band and \$4,000.00 for the Pembina Band, for the purchase of useful articles.

The General Accounting Office has reported no disbursements under Article 3 of the 1863 Treaty. Under Article 3 of the 1864 Treaty the following disbursements are shown for the years involved in this category:

1865		
	Annuity goods - Red Lake Bands	\$17,383.29
	Annuity goods - Pembina Bands	8,991.93
	(apparently includes the 1866 items under Article 3)	
1869		
	Annuity goods - Red Lake Bands	7,764.83
	Annuity goods - Pembina Bands	6,747.28
1875		
	Annuity goods - Red Lake Bands	7,771.66
	Annuity goods - Pembina Bands	3,926.40

1876	
Annuity goods - Red Lake Bands	\$8,306.60
Annuity goods - Pembina Bands	3,355.67

All these sums were allowed in our original determination that the consideration paid was \$609,480.36.

There is no evidence or explanation for the failure of the General Accounting Office to include the items in this category in their allocation of disbursements to the various treaty articles. Nor is there any evidence upon which to base any allocation of these expenditures to the articles of the treaties set forth by defendant. Further, the disbursements listed under Article 3 of the 1864 Treaty already exceed the total obligation under that article (\$180,000.00) by some \$9,125.08. The Commission finds these disbursements were not made to discharge any treaty obligations.

(f) \$150.00 - Purchase of livestock

This expenditure was made in 1871 for purchase of one pair of oxen for the Pembina Indians. This was made as payment "in consideration of their coming 100 miles to meet the pay party" (Def. Ex. 0-13). The Commission finds this disbursement to have been consideration for the act referred to and not payment of any treaty obligation.

(g) \$4,012.70 - Provisions

Defendant claims the following expenditures were made to discharge obligations created by the third and fourth Articles of the 1863 and 1864 treaties:

1865	651 lbs corn meal	\$ 21.15
1866	10,000 lbs beef	1,200.00
	100 bbl flour	400.00
	3 bbl pork	100.00
	1,010½ lbs tobacco	633.30
1867	8,100 lbs beef	972.00
1869	1 cow (beef))	
	1 sack flour)	100.00
	200 lbs apples)	
	2 bu. beans)	
	130 lbs butter)	
	1 bbl. cranberries)	
	200 lbs lard)	
	6 doz. spices)	
	550 lbs sugar)	
	14 gal. syrup)	257.05
1871	1 bbl. flour	12.00
	11 lbs tobacco	13.20
1872	2,750 lbs beef	275.00
1873	1,160 lbs corn	<u>29.00</u>
	Total	\$4,012.70

Defendant has stated that all of the categories included under this finding include expenditures totaling \$46,457.71 out of the \$68,110.89 previously disallowed as payments on this claim. In this regard the sums previously disallowed in each of the above years was:

1865	Transportation, etc., of annuity supplies	\$14,959.90
1866	Expenses of paying annuities	2,153.76

Miscellaneous agency expenses	\$1,031.40	
Provisions and other rations	1,133.30	
Transportation, etc., of annuity supplies	3,566.90	
1867		
Expenses of pay annuities	965.40	
Miscellaneous agency expenses	74.00	
Provisions and other rations	972.00	
Transportation, etc., of annuity supplies	2,177.11	
1869		
Expenses of paying annuities	1,696.31	
Transportation, etc. of annuity supplies	1,031.80	
1871		
Expenses of paying annuities	1,811.28	
Miscellaneous agency expenses	199.75	
Transportation, etc., of annuity supplies	2,278.79	
1873		
Expenses of paying annuities	27.00	
Transportation, etc., of annuity supplies	1,505.29	(Def. Ex. 81)

Out of the seven years during which defendant wishes to add payments for provisions, only in the years 1866 and 1867 were items for provisions included in the disallowed "miscellaneous purpose" category. In 1866 the sum of \$1,133.30 was disallowed and defendant now seeks to add the sum of \$2,333.30. The figures for 1867 balance, \$972.00 disallowed and that same sum now claimed as a payment on the claim.

Included among the representative vouchers in the category is one, dated October 1, 1868, for \$100.00 for flour and one cow with the notation:

"The above were furnished Red Lake Band of Chippewa Indians to enable them to come to the payment at the old Crossing Red Lake River." (Def. Ex. 15)

There are also vouchers showing payment for 750 lbs. of beef, 1 bbl. of flour and 11 lbs. of tobacco for "Pembina Indians at payment." A voucher dated September 1, 1873, contains seven items totaling \$325.86 with the notation:

"Presents	\$239.70
Transpor	30.80
Education	17.24
Useful purps	<u>38.12</u>
	\$325.86"

Out of the items listed defendant has selected only one - an item of \$29.00 for 1160 lbs. of corn - with the explanation "Now, the part that we took was . . . we took \$29.00 of this under transportation" (Tr. 1382). However, this category does not contain transportation items, and the supplemental section to the General Accounting Office Report lists it under Provisions (Def. Ex. 0-3, page 352).

In view of the unexplained increase in the amount now claimed as expenditures for provisions over the amount previously listed, the indications on some of the representative vouchers that some of the disbursements were for presents or other consideration to the individual Indians attending the treaty payments, and the lack of any evidence upon which to base a determination of any amount which may have constituted a payment on the claim, the Commission finds the items in this category cannot be included as payments on the claim.

- (h) \$2,406.59 - Pay and expense of teamsters
 372.87 - Transportation of feed for livestock
 507.19-- Transportation of hunting and fishing equipment
 3,284.06 - Transportation of miscellaneous Indian supplies
 8,248.64 - Transportation of provisions

All of the above categories, totaling \$14,819.35 cover expenses incurred for transportation costs. The first item represents the pay, subsistence and expenses of teamsters in hauling "Indian goods." The Commission finds that these categories include transportation for items the cost of which has not been allowed as part of the consideration paid for the cession. Since there is no basis for any possible allocation of the transportation costs for the goods furnished in discharge of treaty obligations, the Commission finds that these items cannot be allowed as payments on the claim.

(i) \$8,652.00 - Transportation of steam saw and grist mill

This sum was expended for the services and subsistence of 15 men, and the use of 4 teams for a period of 103 days from August 25 to December 5, 1864, in transporting a steam saw and grist mill from St. Paul, Minnesota to Red Lake, Minnesota. Article 5 of the 1864 Treaty provided that:

"The United States also agree to furnish for said Indians at some suitable point, to be determined by the Secretary of the Interior, a saw-mill with a run of millstones attached."
(13 Stat. 689)

The Commission finds that the transportation costs incurred to locate the mill at Red Lake were part of the obligation assumed by the United States under Article 5 of the treaty, and the sum of \$8,652.00 was, therefore, part of the consideration paid for the 1863 cession.

(j) \$505.96 - Transportation of supplies for mills and shops

The expenses in this category were incurred for transporting the following:

<u>1865</u>	6,147 lbs. of supplies for blacksmith and carpenter supplies	\$368.82
<u>1868</u>	1,850 lbs. of iron and steel	70.12
<u>1871</u>	1,976 lbs. of mill fixtures, iron, steel, and hardware, etc.	<u>67.02</u>
	Total	\$505.96

Article 4 of the 1864 Treaty provided:

"The United States also agree to furnish said bands of Indians, for the period of fifteen years, one blacksmith . . .; and will also furnish them annually, during the same period, with fifteen hundred dollars' worth of iron, steel, and other articles for blacksmithing purposes, and one thousand dollars for carpentering, and other purposes."

The Commission finds that the supplies for which these transportation costs were incurred were furnished by defendant in discharge of its treaty obligations. There is no evidence that any iron, steel, hardware, mill fixtures, or supplies for blacksmithing and carpentering were furnished to petitioners except under the provisions of Article 4 of the 1864 Treaty. Accordingly, the Commission finds that the transportation costs incurred to deliver these items to the Red Lake and Pembina Chippewas were expenditures to be included in computing the consideration paid.

(k) \$6,396.04 - Transportation of annuity goods and supplies

The disbursements in this category were made in the years 1865 through 1869 and 1871 through 1876 for the costs of transporting 139,855 lbs. of annuity goods from Sauk Rapids, Minnesota, to the Red Lake and White Earth Reservations. The total cost of the annuity goods

and supplies furnished petitioners was \$189,125.08 (Art. 3, 1864 Treaty). The Commission is revising its finding on the consideration paid by reducing this figure to \$180,000 (see Finding of Fact No. 56(c)). This represents 95.2% of the total amount of the annuity goods furnished. The Commission finds, therefore, that 95.2% of the transportation costs in this category represents the cost of transporting that portion of the annuity goods which is allowed as payments on the claim. The Commission finds that this amount, \$6,089.03, was paid by defendant to discharge its treaty obligations, and this sum is to be included in the computation of the consideration paid.

55. Petitioners have urged that the Commission's finding with respect to the consideration paid should be reduced by the sum of \$39,224.87, which, it is alleged, was erroneously allowed as treaty payments. The Commission's finding with respect to each of the items which petitioners claim were improperly included as treaty payments are as follows:

(a) \$3,000.90 - Expenses of board of visitors

Article 6 of the 1863 Treaty provided:

The President shall appoint a board of visitors, to consist of not less than two nor more than three persons, to be selected from such Christian denominations as he may designate, whose duty it shall be to attend at all annuity payments of the said Chippewa Indians, to inspect their fields and other improvements, and to report annually thereon on or before the first day of November, and also as to the qualifications and moral deportment of all persons residing upon the reservation under the authority of law; and they shall receive for their services five dollars a day for the

time actually employed, and ten cents per mile for travelling expenses: Provided, That no one shall be paid in any one year for more than twenty days' service or for more than three hundred miles' travel.

It is petitioners' contention that the expenditures made under this provision of the treaty should not be included as part of the consideration paid for the reasons that "the treaty does not state the tribes were to pay these expenses. And the tribes did not agree to such expenses . . . the board served an administrative and governmental function (and) . . . were agents of the United States, responsible to the United States, performing services for the United States, and reporting to the Secretary of the Interior." (Petitioners' brief, filed June 16, 1960, page 53). The Commission finds that Article 6 of the 1863 Treaty was a part of that instrument when it was executed by the representatives of the petitioner tribes on October 2, 1863. The provision clearly provided that the United States should pay for the services of the board of visitors, and it is true that such board would serve as agents of the United States. The Commission finds that the services to be performed by the board of visitors were, in some degree, beneficial to the Indian tribes and that this provision in the 1863 Treaty represented a part of the inducement offered for the cession of the lands involved.

Petitioners have also claimed that the treaty limited the expenses of the board to 10 cents per mile but not to exceed \$30 per member in any one year. Therefore, they have contended that the expenses, if allowed at all, could not exceed \$90 per year, whereas the General Accounting Office has listed the expenses as follows: \$260.00; \$260.00;

\$390.00; \$382.50; \$253.40; \$390.00; \$390.00; \$390.00; and \$285.00;
(total--\$3,000.90).

The Commission finds that the General Accounting Office has included in its "Expenses of board of visitors" category both the per diem pay for such board and the 10 cents per mile traveling expenses. The expenditures in this category were properly included as part of the consideration.

(b) \$2,766.82 - Provisions for Pembina Bands

Petitioners have urged that the expenditures in this category should not have been allowed under Article 2 of the 1864 Treaty since that article provided only for cash payments per capita. The General Accounting Office has reported that "\$2,766.82 of the Pembina annuities were used for the purchase of provisions at a time when they were in a condition of extreme want." (Def. Ex. 81, p. 18). Article 2 of the 1864 Treaty supplemented the annuity payment provisions provided by the third article of the 1863 Treaty. Article 3 of the 1863 Treaty had specifically given the President authority to apply a portion of the annuity payments toward the purchase of certain articles or for such other beneficial purposes to promote the prosperity and happiness of the petitioners. The Commission finds that the expenditure of the above sum for the purchase of provisions was within the authority of the United States, and this item was properly included as part of the payment made to discharge obligations arising under Article 2 of the 1864 Treaty.

- (c) \$9,125.08 - Excess of annuity goods over obligated amount of \$180,000.00 under Article 3 of the 1864 Treaty

Under Article 3 of the 1864 Treaty the United States agreed to expend the sum of \$8,000 per year for 15 years for the purpose of supplying certain goods to the Red Lake Band and the sum of \$4,000 per year for 15 years for supplying goods for the Pembina Band. The obligation assumed under this article of the treaty, therefore, was \$180,000.00. The General Accounting Office reported the following disbursements under Article 3 of the 1864 Treaty:

Annuity goods--Red Lake Bands	\$128,477.57
Annuity goods--Pembina Bands	<u>60,647.51</u>
Total	\$189,125.08

The Commission finds that the expenditure of \$9,125.08 above the stipulated amount was not made to discharge obligations arising under this article and this sum should not have been included in the total sum of the consideration paid.

- (d) \$24,332.07 - Items improperly charged under Article 4 of the 1864 Treaty

Article 4 provided:

"The United States also agree to furnish said bands of Indians, for the period of fifteen years, one blacksmith, one physician, one miller, and one farmer; and will also furnish them annually, during the same period, with fifteen hundred dollars' worth of iron, steel, and other articles for blacksmithing purposes, and one thousand dollars for carpentering, and other purposes."

The items to which petitioners object are as follows:

Agency buildings and repairs	\$ 258.50
Agricultural Aid:	
Clearing, breaking and fencing land	521.95
Pay of farm laborers	3,110.60
Seeds, fruit trees, and fertilizer	381.54
Agricultural implements and equipment	1,062.32
Blacksmiths and shops:	
Erection and repairs	150.00
Helpers, strikers, etc.	1,195.19
Carpentering:	
Pay of carpenters	7,260.23
Pay of helpers, etc.	1,855.91
Education:	
Pay of matrons	69.23
Pay of teachers	263.46
Household equipment	232.84
Livestock:	
Feed and care of	964.87
Purchase of	621.28
Medical attention:	
Suppression of contagious diseases	65.00
Pay of laborers	2,743.34
Pay of overseers	31.66
Pay of teamsters	346.54
Provisions and other rations	1,441.70
Saw and grist mill:	
Erection and repairs	673.80
Pay of laborers	<u>1,082.11</u>
Total	\$24,332.07

Of these items the Commission finds that the following were not paid in discharge of obligations assumed under this article of the treaty and should not have been allowed as part of the consideration paid:

Agency buildings and repairs	\$	258.50
Agricultural Aid:		
Clearing, breaking and fencing land		521.95
Pay of farm laborers		3,110.60
Seeds, fruit trees, and fertilizer		381.54
Agricultural implements and equipment		1,062.32
Education:		
Pay of matrons		69.23
Pay of teachers		263.46
Household equipment		232.84
Livestock:		
Feed and care of		964.87
Purchase of		621.28
Medical attention:		
Suppression of contagious diseases		65.00
Pay of laborers		2,743.34
Pay of overseers		31.66
Pay of teamsters		346.54
Provisions and other rations		1,441.70
Saw and grist mill:		
Erection and repairs		673.80
Pay of laborers		<u>1,082.11</u>
Total		\$13,870.74

56. In view of our Findings of Fact Nos. 54 and 55 the Commission's determination of the amount of the consideration payments is amended as follows:

Previous determination (Finding of Fact No. 29)	\$609,480.36	
Plus:		
Value of lands allotted to mixed bloods and two chiefs	34,043.34	
Transportation of steam saw and grist mill	8,652.00	
Transportation of supplies	505.96	
Transportation of annuity goods and supplies	<u>6,089.03</u>	658,770.69
Less:		
Excess of annuity goods over obligated amount under Article 3 of 1864 Treaty	9,125.08	
Items improperly charged under Article 4 of 1864 Treaty	<u>13,870.74</u>	<u>22,995.82</u>
Total		\$635,774.87

This sum of \$635,774.87 represents the total of the allowable items paid petitioners over a period of years. However, the Commission will withhold determination of the amount to be deducted as legal offsets until the parties have submitted their evidence as to the proper commutation of the allowable items of consideration.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner