

BEFORE THE INDIAN CLAIMS COMMISSION

EMIGRANT NEW YORK INDIANS)	
ex rel., JULIUS DANFORTH,)	
OSCAR ARCHIQUETTE, SHERMAN)	
SKENANDORE, MAMIE SMITH)	
and ARVID E. MILLER,)	
)	
Petitioners,)	
)	
v.)	Docket No. 75
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 11, 1964

FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 66 heretofore made in this same proceeding:

67. \$500.00 - Seeds, Fruit Trees and Fertilizer

These items were purchased in 1894 for distribution to destitute Oneida Indians at the Green Bay Agency. It seems clear from the supporting documents that the Oneida Indians as a whole were doing well as farmers and that these items were for aid to individual Indians. This amount is not a proper offset.

68. \$3,917.02 - Agricultural Implements and Equipment

The above items were purchased and issued in 1888 and 1889 and were for the use of the tribe in general. This equipment was for the use of the tribe in pursuing what was already a prosperous farming

operation and should not be considered to be educational in purpose.

This amount will be allowed as an offset.

69. \$1,108.00 - Expenses of Indian Delegations

\$1,000.00 of this expense was occasioned by an error on the part of defendant which made it necessary for the delegation to go to Washington in 1851 in order to discuss the matter. This is not a tribal benefit in the usual sense and is disallowed as an offset. The balance of \$108.00 has not been shown to have been for the benefit of the tribe and is disallowed.

70. \$189.72 - Indigent Indians, Funeral Expense

This item for funeral expense of indigent Indians in 1936, 1937 and 1938 is a proper offset and is allowed.

71. \$65,884.27 - Purchase of Land

This is money expended for land under Section 5 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984). This sum is represented by 37 vouchers and 2 copies of deeds and related correspondence showing the acquisition authority and purpose. This is a proper offset.

72. \$180.54 - Transportation of Supplies for Agricultural Aid

This amount was incurred in the process of transporting goods in 1889, 1890 and 1891, for which an offset was allowed, and is therefore a proper offset in itself.

73. \$2,336.71 - Expenses of Indian Delegations

This total is composed of four separate items. The first of

these in the amount of \$839.50 appears from the evidence to have been instigated by the Indians in 1839 for purposes which they deemed necessary and beneficial to the administration of their affairs. An offset in this amount will be allowed.

The other three items constituting the balance of the \$2,336.71 have not been shown to be for the benefit of the tribe involved and the balance of \$1,497.21 must be disallowed.

74. \$40.00 - Indigent Indians, Funeral Expense

This item is for funeral expense in 1936 and is an allowable offset.

75. \$865.00 - Provisions

This amount is made up of \$103.50 expended in 1863, \$146.50 expended in 1863, and \$615.00 expended in 1866. The Report of the Commissioner of Indian Affairs for the year 1868 indicates a tribal need and the offset will be allowed as a tribal benefit.

76. \$22,534.10 - Purchase of Land

This amount is supported by 9 vouchers and a deed and related correspondence and was purchased under the Indian Reorganization Act of 1934 for the benefit of the Stockbridge and Munsee Indians. It is a proper offset as was the similar acquisition for the Oneida Indians set forth in Finding No. 71.

77. \$1,830.00 - Expenses of Dividing Lands of the
Brothertown Indians

This item was incurred in 1839 as a result of the partition and

allotment of the Brothertown Reservation lands and was for the benefit of the Indians. It is a proper offset.

78. \$3,240.00 - Expenses of Partitioning Lands

This item is similar to the last one and was paid for the benefit of the Stockbridge Indians in 1846. It is a proper offset.

79. \$1,108.13 - Surveying

This item was incurred in connection with the establishment of the reserves created under the Stambaugh Treaty of 1831-1832 and as such is an administrative expense of defendant and is not a proper offset.

80. \$39,831.20 - Oneida Reservation

This item represents the value of 49,789 acres at 80¢ per acre, the original right to which was given to the Oneida Indians under the Stambaugh Treaty of 1831-1832 (7 Stat. 342; 7 Stat. 346). The actual acreage was determined as a result of the Treaty of 1838 (7 Stat. 566) based upon the fact that there were then 654 Oneida Indians residing in Wisconsin.

Defendant has already been allowed 23.87% of 500,000 acres as consideration under the Stambaugh Treaty of 1831-1832 and this figure of 49,789 acres represents the remainder of the 65,400 acres set aside within the 500,000 acre tract under the treaty with the Oneidas in 1838 after deducting 23.87% thereof representing that portion of the 65,400 acres previously allowed as consideration.

This amount is a proper offset and will be allowed.

81. Summary of amounts allowed and disallowed under each of the preceding findings:

<u>Finding of Fact No.</u>	<u>Allowed</u>	<u>Disallowed</u>
67	\$	\$ 500.00
68	3,917.02	
69		1,108.00
70	189.72	
71	65,884.27	
72	180.54	
73	839.50	1,497.21
74	40.00	
75	865.00	
76	22,534.10	
77	1,830.00	
78	3,240.00	
79		1,108.13
80	<u>39,831.20</u>	
	\$139,351.35	<u>\$4,213.34</u>

82. The course of dealings between petitioners and defendant has been such as to entitle defendant to credit against the Emigrant New York Indians for the amount of those offsets listed above which have been determined by the Commission to be allowable under Section 2 of the Indian Claims Commission Act.

83. Gratuitous expenditures in the amount of \$139,351.35 were made by defendant since the treaty date for the benefit of the Emigrant New York Indians and defendant is entitled to credit for that amount. Subtracting \$139,351.35 from the amended interlocutory

award of \$1,452,824.00 makes a final award in the amount of \$1,313,472.65. A final judgment in that amount will be entered.

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner