

BEFORE THE INDIAN CLAIMS COMMISSION

THE CITIZEN BAND OF POTAWATOMI )  
INDIANS OF OKLAHOMA, ET AL., )  
 )  
Petitioners, )  
 )  
v. ) Docket No. 101  
 )  
THE UNITED STATES OF AMERICA, )  
 )  
Defendant. )

Decided: September 14, 1964

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The Citizen Band of Potawatomi Indians of Oklahoma, one of the petitioners, is an organized band of American Indians having capacity to present claims under the Indian Claims Commission Act.

2. The Potawatomi Nation or Tribe was divided into the Citizen Band and the Prairie Band of Potawatomi Indians as a consequence of carrying out certain provisions of two treaties with the United States, the first dated November 15, 1861, 12 Stat. 1191, and the second dated February 27, 1867, 15 Stat. 531.

3. Petitioners assert two claims. The first claim is for \$30,387.34 credited to the United States as against payments due to the Potawatomi Nation under treaties made prior to 1819. The second claim is for an accounting of the per capita payments payable to members of the Citizen Band of Potawatomi pursuant to the treaties of 1861 and 1867, supra.

aim No. 1

4. Under Article X of the Treaty of February 27, 1867, 15 Stat. 531, 536, two commissioners were appointed by the President to examine

the claims of the Potawatomi Nation and to report their findings to the Secretary of the Interior, who in turn was to make a report of such findings to Congress.

5. In compliance with Article X of the Treaty of 1867, the report of the commissioners revealed that \$30,387.34 was alleged to have been paid to the Potawatomes by the Government under treaties prior to 1819 but could not be proved since receipts covering said amount had been lost. The amount, however, was credited to the Government as having been paid.

The defendant, through its General Accounting Office, prepared a statement outlining payments made to the Potawatomi Nation under all treaties prior to 1819 which were not covered in the commissioners' report. The statement is supported with documentary evidence of copies of invoices, receipts, vouchers and journal entries which shows proof that more than \$30,387.34 had been paid to the Potawatomi Nation.

6. Defendant's Exhibit A-2 shows the statement of amounts claimed due to the Potawatomes under treaties prior to 1819 and page numbers within the General Accounting Office Reports which support the evidence of payment of sums in excess of the stated \$30,387.34. The last column, entitled "Amounts in GAO Reports not included in Ex. Doc." shows the amounts of money found by the General Accounting Office which were not reported in the commissioners' report.

7. With respect to the first claim of petitioners, the defendant has fully accounted and there is no sum due hereunder.

Claim No. 2

8. By the second article of the Treaty of November 15, 1861, 12 Stat. 1191, it is provided that:

It shall be the duty of the agent of the United States for said tribe to take an accurate census of all the members of the tribe, and to classify them in separate lists, showing the names, ages, and numbers of those desiring lands in severalty, and of those desiring lands in common, \* \* \*.

By the third article of said treaty it was provided that:

At any time hereafter when the President of the United States shall have become satisfied that any adults, being males and heads of families, who may be allottees under the provisions of the foregoing article, are sufficiently intelligent and prudent to control their affairs and interests, he may, at the request of such persons, cause the lands severally held by them to be conveyed to them by patent in fee simple, with power of alienation; and may, at the same time, cause be paid to them, in cash or in the bonds of the United States, their proportion of the cash value of the credits of the tribe, principal and interest, then held in trust by the United States, and also, as the same may be received, their proportion of the proceeds of the sale of lands under the provisions of this treaty. \* \* \*

9. By a supplemental treaty, February 27, 1867, 15 Stat. 531, Article VI provided that Article III of the previous Treaty of 1861 would continue in force, relative to Potawatomies who desired to become citizens, with the additional provision that:

\* \* \* where any member of the tribe shall become a citizen under the provisions of the said treaty \* \* \* the families of said parties shall also be considered as citizens, and the head of the family shall be entitled to patents and the proportional share of funds belonging to his family; and women who are also heads of families, and single women of adult age, may become citizens in the same manner as males.

10. In compliance with the treaty stipulations, a census of Potawatomi tribal members was conducted under the dates of May 12, 1868, February 12, 1869, February 10, 1871 and February 13, 1872. Such census revealed that of 2,180 Potawatomes, 1,400 desired to become citizens and 780 desired to keep their lands in common. Those desiring to become citizens became known as the Citizen Band of Potawatomi Indians and those who wished to maintain their tribal customs and keep their land in common became known as the Prairie Band of Potawatomi Indians.

11. After the census rolls were prepared, the total assets of the Potawatomi Nation were computed and Congress authorized payments to the Citizen Band, the petitioners herein, on the basis of the ratio of the Census,  $\frac{1400}{2180}$ .

12. The defendant, through its General Accounting Office, shows that of the \$1,812,761.49 total assets of the Potawatomi Nation the sum of \$1,356,030.37 is the total amount distributed pro rata to the Citizen Band of Potawatomi. The distribution is supported by evidence consisting of General Accounting Reports, which show the appropriation and distribution of various sums classified in various headings together with actual photostatic copies of receipts, vouchers and annuity rolls.

The \$1,356,030.37 sum consists of the following:

(a) \$453,602.00 commuted annuities under the Treaties of August 3, 1795, September 30, 1809, October 2, 1818, October 16, 1826, September 20, 1828, July 29, 1829 and June 5 and 17, 1846.

(b) \$474,876.15 of the trust funds set up under the Treaty of June 5 and 17, 1846.

(c) \$128,850.07 as shares of stocks and bonds under the Treaties of September 26, 1833 and February 27, 1867. \$63,468.78 is petitioners' pro rata share of the trust fund interest on the sales of the stocks and bonds.

(d) \$228,033.37, proceeds of land sold under the Treaty of February 27, 1867 and \$7,200 cash in lieu of allotments under the Treaty of November 15, 1861.

13. With respect to the second claim of petitioners, all of the original accounts and records on file in the General Accounting Office respecting transactions between the defendant and petitioners have been made available by defendant for petitioners' examination.

Defendant's Exhibit A-9 contains photostatic copies of typical vouchers, receipts, annuity rolls, etc. showing proof of payments to petitioners relative to their pro rata shares of the Potawatomi Nations' assets.

Such evidence discloses that the defendant has fully accounted, fully paid, or otherwise satisfied the financial obligations created according to the terms of the several treaties or agreements between the parties. The petitioners are not entitled to recover under the claims of the petition as amended by the supplemental petition.

/s/ Arthur V. Watkins  
Chief Commissioner

/s/ Wm. M. Holt  
Associate Commissioner

/s/ T. Harold Scott  
Associate Commissioner