

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

Appearances:

Howard D. Moses, with whom was
Louis L. Rochmes, Attorneys for
petitioners.

Aaron Shannon Bennett, with whom was
Mr. Assistant Attorney General,
Ramsey Clark, Attorneys for defendant.

OPINION OF THE COMMISSION

Holt, Associate Commissioner, delivered the opinion of the Commission.

The original petition filed in this case requested an accounting of petitioners' funds handled by defendant. Accounting reports covering the treaties and agreements referred to in the petition were prepared by the General Accounting Office and submitted to counsel for petitioners. Thereafter, upon motion of defendant, the Commission ordered the petitioners to file a more definite statement of their claim based on the accounting reports. Pursuant to said order, petitioners filed a supplemental petition on January 26, 1961, setting forth two claims. One claim is for \$30,387.34 claimed to have been credited to the United States as against payments due the Potawatomi Nation under all treaties

made prior to 1819 without proof that such sum had actually been paid. The second claim is for a complete accounting of the distribution to the members of the Citizen Band of their pro rata share of the assets of the Potawatomi Nation as provided under the terms of the Treaty of November 15, 1861, 12 Stat. 1191, as modified by the Treaty of February 27, 1867, 15 Stat. 531.

In its answer to the supplemental petition, the defendant denied that it owed petitioners the \$30,387.34 under all treaties prior to 1819 and alleged that in fact it had paid petitioners sums in excess of that amount. Also, attached to the answer is a report prepared by the General Accounting Office showing the sum of \$1,356,030.37 as having been disbursed to the Citizen Band as its share of the assets of the Potawatomi Nation.

At the hearing on the claims before the Commission on March 23, 1964, the defendant's Exhibit Nos. A-1 through A-9 were received in evidence, which included the reports of the General Accounting Office on the claims.

As to Claim 1, it appears that the commissioners named under Article 10 of the Treaty of February 27, 1867, reported to Congress payment to Potawatomes on treaties prior to 1819 in the sum of \$30,387.34 but stated "we can find no proof either in the Treasury or Indian Department establishing that * * * \$30,387.74 has been paid." (Def. Ex. A-1, pp. 9, 30) However, the records of the General Accounting Office in evidence show payments to the Potawatomes on treaties prior to 1819 as follows:

<u>Treaty Date</u>	<u>GAO Report date and page</u>	<u>Amounts not included in Executive Document No. 61</u>
August 3, 1795	August 10, 1955, p. 162	\$ 14,000.00
August 3, 1795	August 10, 1955, p. 218	9,000.00
August 21, 1805	January 21, 1955, pp. 59-64	4,001.62
November 17, 1807	December 16, 1954, p. 84	2,800.00
November 17, 1807	December 16, 1954, p. 69	1,600.00
September 30, 1809	November 8, 1954, p. 135	4,000.00
September 30, 1809	November 8, 1954, p. 81	<u>500.00</u>
Totals		\$ 35,901.62

So the defendant has given a full accounting as to Claim 1 and petitioners are not entitled to recover thereunder.

Claim 2. The Treaty of November 15, 1861, Articles 2 and 3, as modified by the Treaty of February 27, 1867, Article 6, provided for a census of the Potawatomi tribal members. The census taken in compliance with the treaties revealed a total population of 2180 Potawatomes, of which 1400 desired to become citizens and became known as the Citizen Band, and 780 desired to maintain their tribal customs and keep their land in common and became known as the Prairie Band. After the census rolls were prepared, the total assets of the Potawatomi Nation were computed and Congress authorized payments to the Citizen Band on the ratio of the census of 1400/2180ths of the total assets.

The General Accounting Report in evidence shows that the total assets of the Potawatomi Nation amounted to \$1,812,761.49, and that of that sum, \$1,356,030.67 was distributed and paid pro rata to the members of the Citizen Band. Thus the defendant has given a full and complete accounting as to Claim 2, and there is nothing owing to the Citizen Band thereunder. Furthermore, at the close of the hearing on

March 23, 1964, counsel for petitioners conceded that a complete accounting had been rendered on both claims and that the General Accounting Office reports in evidence show that there is nothing due petitioners on said claims. Counsel for the parties also agreed that the defendant should prepare finding of fact to show that the two claims had been satisfied. Such findings of fact which we have adopted were filed by the defendant and in a response filed by petitioners on July 29, 1964, petitioners state "that the same appear to be in accord with the evidence and they have no objection thereto."

Accordingly, an order will be entered dismissing the petition as supplemented.

/s/ Wm. M. Holt
Associate Commissioner

We concur:

/s/ Arthur V. Watkins
Chief Commissioner

/s/ T. Harold Scott
Associate Commissioner