

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI INDIANS)	
OF OKLAHOMA)	
and)	
POTAWATOMI NATION REPRESENTED BY)	
CITIZEN BAND OF POTAWATOMI INDIANS)	
OF OKLAHOMA, ET AL.,)	Docket No. 217
)	
THE PRAIRIE BAND OF THE POTAWATOMIE)	
TRIBE OF INDIANS, ET AL.,)	Docket 15-K
)	
HANNAHVILLE INDIAN COMMUNITY, et al.,)	Docket No. 29-J
)	
JAMES STRONG, ET AL., as the rep-)	
resentatives and on behalf of all)	
members by blood of the CHIPPEWA TRIBE))	
OF INDIANS, including all descendants))	
of Chippewa members of the UNITED)	
NATION OF INDIANS,)	Docket No. 13-L
)	
RED LAKE, PEMBINA, AND WHITE EARTH)	
BANDS, ET AL.,)	Docket No. 18-I
)	
ROBERT DOMINIC, ET AL., as the rep-)	
resentative and on behalf of all)	
members by blood of the OTTAWA TRIBE))	
OF INDIANS,)	Docket No. 40-J
)	
Petitioners,)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: April 15, 1965

Appearances:

Howard D. Moses and Robert Stone
Johnson, with whom were Giddings Howd,
and Louis L. Rochmes, Attorneys for
Petitioners in Dockets 217 and 15-K.

Walter H. Maloney, Robert C. Bell,
and Louis L. Rochmes, Attorneys for
Petitioner in Docket 29-J.

Walter J. Muir, Frank De Nunzio,
Braxton Miller with whom was Acting
Assistant Attorney General J. Edward
Williams Attorneys for Defendant.

OPINION OF THE COMMISSION

Watkins, Chief Commissioner, delivered the opinion of the Commission.

On November 29, 1962, this Commission issued its findings of fact, opinion, and interlocutory order determining that the petitioners in consolidated Docket Nos. 217, 15-K, and 29-J shall recover from the defendant the net sum of \$2,105,363.30 less allowable offsets.

Defendant filed its amended answer herein on May 23, 1963, alleging that some \$10,790.28 in gratuitous expenditures should be allowed as offsets. Petitioner in Docket 29-J replied to defendant's answer stating that none of the alleged offsets asserted by defendant in its amended answer should be allowed.

Petitioner in Docket 29-J also stated that the amounts claimed as offsets in paragraph 31 of the amended answer were expended by the United States in 1837 and 1838, but should be allowed only against that portion of the award that may be made payable to the petitioners in Dockets 217 and 15-K, since only the ancestors of the petitioners in 217 and 15-K were the beneficiaries of said payments. Finally, the petitioners in 29-J requested a hearing on their position.

The petitioners in 217 and 15-K stated that they lacked knowledge and information sufficient to form a belief with respect to the allegations contained in paragraphs 30 and 34 inclusive of defendant's amended answer and said petitioners requested a hearing.

On November 14, 1963, a hearing was held at which hearing all interested parties were present. Defendant in support of its contention contained in its amended answer offered evidence showing payment of the sum

of \$10,790.28. Said evidence was received as Exhibits O-1 through O-8.

During said hearing petitioners in 217 and 15-K took the position that the money expended by defendant, as outlined in paragraph 34 of defendant's amended answer, was a removal expense and not a proper offset. It is the Commission's opinion that the expenditures claimed by the defendant, including those described in paragraph 34 of defendant's amended answer, were not removal expenses; that said expenditures had occurred long after the removal date; that said expenditures were made in 1839-1841, and therefore do not come within the removal items as set forth in Sec. 2 of the Indian Claims Commission Act. They are gratuities and allowable offsets.

With regard to the claim of petitioner in 29-J that said expenditures were for petitioners in Dockets 217 and 15-K only, we conclude that since the single award is to all petitioners, on behalf of the United Nation of Chippewa, Ottawa, and Potawatomi Indians of the Waters of the Illinois, Milwaukee, and Manitoouck Rivers; the offsets, in the amount of \$10,790.28, should be properly allowed against the total award, leaving a final award of \$2,094,573.02, which the petitioners in Dockets 217, 15-K and 29-J shall recover from the defendant. An order to this effect will be so entered.

/s/ Arthur V. Watkins
Chief Commissioner

/s/ Wm. M. Holt
Associate Commissioner

Commissioner Scott did not participate
in the case.