

BEFORE THE INDIAN CLAIMS COMMISSION

THE POTTAWATOMIE TRIBE OF INDIANS, THE PRAIRIE)	
BAND OF THE POTTAWATOMIE TRIBE OF INDIANS,)	Docket No. 15-D
and WILLIAM EVANS, ELLEN NOGAHNKOUK VIEUX,)	
and LISA (NAGONBA) CLAYBEAR, as individuals-)	
plaintiff,)	
)	
Plaintiffs,)	
)	
THE POTTAWATOMIE NATION OF INDIANS, THE PRAIRIE)	
BAND OF THE POTTAWATOMIE NATION OF INDIANS,)	Docket Nos. 15-P,
and WILLIAM EVANS, ELLEN NOGAHNKOUK VIEUX, and)	and 15-Q
LISA (NAGONBA) CLAYBEAR, as individuals-)	
plaintiff,)	
)	
Plaintiffs,)	
)	
HANNAHVILLE INDIAN COMMUNITY, WILSON, MICHIGAN;)	
FOREST COUNTY POTAWATOMI COMMUNITY, CRANDON,)	Docket Nos. 29-B,
WISCONSIN; POTAWATOMI TRIBE OR NATION OF)	29-N, and 29-O
INDIANS; FRANK WANDAHSEGO, SR., ELIJAH)	
PETONQUOT, IKE GEORGE and VALENTINE RITCHIE,)	
)	
Plaintiffs,)	
)	
THE PEORIA TRIBE OF INDIANS OF OKLAHOMA and)	
MABEL STATON PARKER on behalf of THE)	Docket No. 99
PIANKESHAW NATION)	
)	
IRA SYLVESTER GODFROY, WILLIAM ALLOLA GODFROY,)	
JOHN A. OWENS, on relation of THE MIAMI INDIAN)	
TRIBE and MIAMI TRIBE OF INDIANA and each on)	Docket No. 124-H
behalf of others similarly situated and on)	
behalf of the MIAMI INDIAN TRIBE and various)	
bands and groups of them comprising the MIAMI)	
TRIBE AND NATION,)	
)	
Plaintiffs,)	
)	
THE MIAMI TRIBE OF OKLAHOMA, also known as THE)	
MIAMI TRIBE and HARLEY T. PALMER, FRANK C.)	Docket No. 254
POOLER and DAVID LEONARD, as representatives)	
of the MIAMI TRIBE and of all the members)	
thereof,)	
)	
Plaintiffs,)	

CITIZEN BAND OF POTAWATOMI INDIANS OF OKLAHOMA,)
 and POTAWATOMI NATION, represented by CITIZEN)
 BAND OF POTAWATOMI INDIANS OF OKLAHOMA, and)
 by DAN NADEAU, MAY FAIRCHILD and A. B. PECORE,)
 members of such Band and such Nation, and)
 DAN NADEAU, MAY FAIRCHILD and A. B. PECORE,)
 on the relation of POTAWATOMI NATION,)

Docket Nos. 306,
309, and 311

Plaintiffs,)

THE PEORIA TRIBE OF INDIANS OF OKLAHOMA, GUY)
 FROMAN on behalf of the PEORIA NATION, and)
 FRED ENSWORTH on behalf of the KASKASKIA)
 NATION,)

Docket No. 313

Plaintiffs,)

THE PEORIA TRIBE OF INDIANS OF OKLAHOMA and)
 AMOS ROBINSON SKYE on behalf of the WEA)
 NATION,)

Docket No. 314-A

Plaintiffs,)

THE KICKAPOO TRIBE OF KANSAS, THE KICKAPOO)
 TRIBE OF OKLAHOMA, THE KICKAPOO NATION,)
 ET AL.,)

Docket No. 315

Plaintiffs,)

v.)

UNITED STATES OF AMERICA,)

Defendant.)

Decided: APR 4 1973

FINDINGS OF FACT ON TITLE

The Commission makes the following findings of fact:

DOCKET NO. 313

PEORIA CLAIMS ON BEHALF OF THE PEORIA AND KASKASKIA

1. Plaintiff's Identity And Capacity to Sue. The Peoria Tribe of

Indians of Oklahoma is duly incorporated under the Act of June 26, 1936 (49 Stat. 1967), and has been recognized by the Secretary of the Interior as having authority to represent the respective tribal groups which, prior to the incorporation of said plaintiff, were known and recognized as the Peoria, Kaskaskia, Wea and Piankeshaw tribes or nations. The corporate plaintiff is authorized under Sections 2 and 10 of the Indian Claims Commission Act (60 Stat. 1049), to present and maintain this action on behalf of its constituent tribes, the Peoria Nation and the Kaskaskia Nation. There were at the date of filing of the petition herein, and are now, living members or descendants of members of the Peoria and Kaskaskia tribes or nations of Indians. Peoria Tribe of Indians v. United States, Docket No. 65, et al., 4 Ind. Cl. Comm. 223, 238, aff'd on other grounds, 177 Ct. Cl. 762 (1965), rev'd on other grounds, 390 U.S. 468 (1968).

2. Decimation of "Illinois Indians", and Abandonment of Territory.

At the time of the Treaty of Greeneville of August 3, 1795, the Peoria and Kaskaskia were two of the once numerous and populous tribes known as the Illinois Indians. They, along with other tribes, including the Kickapoo, Shawnee, Miami, and Wea, had used and occupied portions of Royce Area 96a in the latter half of the seventeenth century. However, for more than a century prior to the 1795 Greeneville Treaty, the Illinois Indians had suffered continual attacks by tribes on all sides, which reduced them almost to the point of extinction by 1795.

The Iroquois were among the foremost of the early enemies of the Illinois Indians. In 1680 the Kaskaskia and other Illinois Indians, under attack by the Iroquois, temporarily abandoned their large village near Starved Rock on the Illinois River, just north of Royce Area 96a. In 1684 the Iroquois beseiged Fort St. Louis at Starved Rock, and declared their intent to exterminate all Illinois Indians. The French Governor, Denonville reported in 1686 that within two years, the Iroquois had destroyed a great number of Illinois Indians. In 1691, the Iroquois again attacked the Illinois Indians at Ft. St. Louis.

The following chronology of events further describes the plight of the Illinois Indians.

- 1689 - Illinois fight the Osage.
- 1691 - Illinois are anxious to leave Starved Rock: firewood is exhausted.
- 1692 - Peoria and Kaskaskia move to the south end of Lake Peoria on the Illinois River where the French built a fort for them.
- 1700 - By this date three Illinois tribes, the Tamarois, Cahokia, and Mechigamia, are living in the village of Cahokia along the Mississippi River in Royce Area 48. In this year the Kaskaskia move from the Illinois River and settle at Kaskaskia on the mouth of the Kaskaskia River in Royce Area 48.
- 1701 - Kaskaskia build a new village two leagues below Cahokia on the west bank of the Mississippi River, where they are joined by some of the Tamarois.
- 1703 - The Kaskaskia and Tamarois return to Royce Area 48 and settle at Kaskaskia.
- 1710 - The Fox and Kickapoos engage in hostilities with the Illinois.

- 1711-1712 - Illinois Indians remaining at Starved Rock war with the Fox.
- 1718 - Illinois Indians war with the Fox and Wea.
- 1719-1720 - Illinois Indians war with Kickapoos, Mascoutins and Fox.
- 1722 - Illinois Indians war with the Fox.
- 1723 - Illinois Indians war with the Fox, Sioux, Mascoutins, Kickapoo, Puants (Winnebago) and Sac. Peorias are forced to abandon Lake Peoria and Starved Rock, and withdraw to three villages at Kaskaskia, Mechigamia and Cahokia.
- 1725 - Fox, Kickapoo and Sioux war on the Peoria.
- 1730 - Peoria make peace with the Kickapoo.
- 1738 - Sac and Fox war on Illinois Indians.
- 1741 - Fox war on Illinois Indians.
- 1751 - Potawatomi, Mascoutin, Menominee and Chippewa attack the Peoria.
- 1752 - Following the loss of seventy men from attack by Fox, Sioux, Sac, Potawatomi, Winnebago, and Menominee, part of the surviving Cahokia join the Peoria and Piankeshaw.
- 1763 - By this date the Peoria have moved from the Illinois River in Royce Area 96a, and established a village in Royce Area 48 along the Mississippi River between Cahokia and Kaskaskia.
- 1765 - The Peoria settle at Kaskaskia. Two hundred and fifty Peoria warriors and one hundred and fifty Kaskaskia warriors are at Fort Chartres, on the Mississippi River 20 miles above the Kaskaskia River, and planning to move west of the Mississippi River.
- 1769 - The assassination of the Ottawa Chief, Pontiac, by a Kaskaskia Indian at Cahokia precipitates a war of extermination by the Ottawas and their allies, including the Potawatomis, against the Illinois Indians. Of this event, Hodge states in his Handbook of American Indians, (Bulletin 30, Part 1, B.A.E. 598 (1907)), that within a few years the Illinois were reduced to a mere handful, who took refuge with the French at Kaskaskia while the Sac, Fox, Kickapoo, and Potawatomi took possession of their country.

- 1773 - The Peoria winter on the Illinois River 48 miles from its mouth.
- 1777 - The Peoria and Kaskaskia are reduced to 100 warriors at Kaskaskia. They are almost destroyed from incessant war with all of the surrounding tribes.
- 1778 - The Kaskaskia, Peoria, Cahokia and Michigamia are reported as almost extinct. They comprise the remaining Illinois Indians but do not exceed 40 or 50 (warriors?).
- 1789-90 - The Kaskaskia number about 20 families and claim only the site of their old village at Kaskaskia. The Peoria number about 100 (individuals?) and have abandoned their former country. The Cahokia are reduced to 4 or 5 families and have also abandoned the ~~in~~ country.
- 1793 - Peoria and Kaskaskia are still reported as bringing furs to St. Louis to trade.
- 1794 - The Chicasaw and Choctaw war on the Peoria and Illinois (Kaskaskia?).
- 1795 - The bulk of the Peoria are in vicinity of St. Genevieve, Missouri, west of the Mississippi River. Remnants of Michigamia and Tamarois have merged with other tribes, principally the Kaskaskia.
- 1797 - Only 8 or 10 Kaskaskia men are reported living. The remaining Cahokia have merged with other tribes. The bulk of the Peorias, consisting of 40 men, are living on the west side of the Mississippi River, near St. Genevieve, Missouri.
- 1800 - The Kaskaskia, who alone can claim the country around Kaskaskia, do not exceed 15 (warriors?).
- 1801 - The Kaskaskia are stated to have 15-20 warriors.
- 1803 - Thirty Peoria, Kaskaskia, and other Illinois Indians are living at St. Genevieve.
- 1805 - The Peorias subsist by begging and stealing from St. Genevieve.
- 1804-6 - The Kaskaskia consist of fifteen men, the remains of a numerous people. The Peoria consist of a band of about thirty men near St. Genevieve, the only remnant of a large nation.

1815 - Peoria are on the St. Francis River south of St. Louis. Their total population consists of 40 persons including 10 warriors. Governor Edwards reports that the Ottawas, with their Chippewa allies drove them off of their former lands and claim their country by conquest. The Kaskaskias consist of 60 persons, including 15 warriors, at Kaskaskia.

1820 - Sub Indian Agent, Pierre Menard reports that the Peorias have resided in Missouri territory for the past 40 years, and that their annuities are carried to their town 150 miles west of St. Genevieve.

3. Plaintiffs' Claim In Docket No. 313. In Docket No. 313 the plaintiffs allege that under the Treaty of Greeneville of August 3, 1795 (7 Stat. 49), and under the Treaty of September 25, 1818 (7 Stat. 181), the Kaskaskia and Peoria Nations acquired recognized title to lands in the present State of Illinois. The lands are designated as Royce Areas 48 and 96a on the Royce Map of Indian Land Cessions^{1/}. The plaintiffs further allege that they were paid unconscionably low consideration when they ceded these lands to the United States under the Treaty of September 25, 1818, and the Treaty of August 13, 1803 (7 Stat. 78).

4. Participation by Kaskaskia But Not By Peoria, In Greeneville Recognition Treaty Of August 3, 1795. The Treaty of Greeneville of August 3, 1795, was negotiated and executed in pursuance of the policy expressed in Article III of the Northwest Ordinance which provided in part:

The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken from them without their consent; and in their property, rights and liberty, they

^{1/} 18th Annual Report of Bureau of American Ethnology, pt. 2, plat 17 (1896-97) [hereinafter cited as 18 B.A.E. Ann. Rep.]

never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them. [Note (a), 1 Stat. 51, 52.]

General Wayne, as the representative of the United States at the 1795 Treaty of Greeneville, found it impossible at the time to define intertribal boundaries within the area which the United States recognized as Indian lands under the treaty. Such boundaries were established by follow-up cession treaties. They are a subject of contention in this suit.

The Kaskaskia tribe or nation was a participant on its own behalf at the 1795 Treaty of Greeneville. Evidence of the Kaskaskia participation in the 1795 Greeneville Treaty may be summarized as follows. The Greeneville Treaty journal records treaty council speeches of the Miami Chief, Little Turtle, on July 29 and 30, 1795, in which references were made to the Kaskaskias and others being pleased with the words of the United States. On August 7, 1795, General Wayne, on behalf of the United States, addressed the council, instructing the chiefs and warriors to behold the treaty to which the Kaskaskias and other tribes had set their hands and seals. On the same date a roll call of the different nations of Indians present at and parties to the treaty listed ten Kickapoos and Kaskaskias. The engrossed caption of the treaty, as ratified by the Senate and proclaimed by President Washington, specifically includes the Kaskaskias; Article IV of the treaty provides for an annual

payment of \$500 to the Kaskaskias. The signature caption specifies "Kickapoos and Kaskaskias", followed by three signatures, the tribal identity of which is not otherwise disclosed. (In contrast, the signatures immediately preceding these on the treaty, are captioned "Weas, for themselves and the Piankeshaws", evidencing that the Weas signed on behalf of the Piankeshaws as well as for themselves.)

The Peoria tribe or nation was not a part of nor represented by the Kaskaskia tribe or nation at the 1795 Treaty of Greeneville and did not participate therein. More than twenty years prior to the 1795 Treaty of Greeneville, the Peoria Tribe had abandoned all of Royce Area 96a in Illinois to other Indians, including the Kickapoo, who did participate in the 1795 Treaty of Greeneville.

5. Kaskaskia Cession Of Royce Area 48, In Illinois. On August 13, 1803, the United States entered into a treaty at Vincennes (7 Stat. 78) with the Kaskaskia Tribe of Indians, whereby the latter ceded all of its interests in the lands "in the Illinois country." The preamble of the treaty provides that the Indian participants were "[T]he Kaskaskia tribe of Indians so called, but which tribe is the remains and rightfully represent all of the tribes of the Illinois Indians, originally called the Kaskaskia, Mitchigamia, Cahokia and Tamaroi".^{2/}

^{2/} By 1797 the Michigamia, Cahokia and Tamaroi had ceased to exist as separate tribes and the majority of the remnants of these tribes had merged with the Kaskaskia. The territory which these three tribes had used and occupied for nearly 100 years prior to 1797 was limited to the southern portion of Royce Area 48, designated as tract A on Map Appendix I (and to a small area west of the Mississippi River which is not the subject of this suit).

Article 1 of the Treaty of August 13, 1803, reads:

Whereas from a variety of unfortunate circumstances the several tribes of Illinois Indians are reduced to a very small number, the remains of which have been long consolidated and known by the name of the Kaskaskia tribe, and finding themselves unable to occupy the extensive tract of country which of right belongs to them and which was possessed by their ancestors for many generations, the chiefs and warriors of the said tribe being also desirous of procuring the means of improvement in the arts of civilized life, and a more certain and effectual support for their women and children, have, for the considerations hereinafter mentioned, relinquished and by these presents do relinquish and cede to the United States all the lands in the Illinois country, which the said tribe has heretofore possessed, or which they may rightfully claim, reserving to themselves however the tract of about three hundred and fifty acres near the town of Kaskaskia, which they have always held and which was secured to them by the act of Congress of the third day of March, one thousand seven hundred and ninety-one, and also the right of locating one other tract of twelve hundred and eighty acres within the bounds of that now ceded, which two tracts of land shall remain to them forever.

The boundaries of the cession, subsequently designated as Royce Area 48 in Illinois, were established by Article 5 of the 1803 treaty as follows:

And to the end that the United States may be enabled to fix with the other Indian tribes a boundary between their respective claims, the chiefs and head warriors of the said Kaskaskia tribe do hereby declare that their rightful claim is as follows, viz-- Beginning at the confluence of the Ohio and the Mississippi, thence up the Ohio to the mouth of the Saline creek, about twelve miles below the mouth of the Wabash, thence along the dividing ridge between the said creek and the Wabash until it comes to the general dividing ridge between the waters which fall into the Wabash, and those which fall into the Kaskaskia river; and thence along the said ridge until it reaches the waters which fall into the Illinois river, thence in a direct course to the mouth of the Illinois river, and thence down the Mississippi to the beginning.

The northwest boundary of Royce Area 48 is marked by a dashed line on the Royce map of Indian Land Cessions, 18 B.A.E. Ann. Rep. pt. 2, plat 17 (1896-97), and on Map Appendix I, at page , infra. On the latter map the area is further designated by the symbols A and A'.

6. Peoria Quitclaim Of Royce Area 96a In Illinois, And Confirmation Of Kaskaskia Cession Of Royce Area 48 In Illinois. On September 25, 1818, the United States entered into a treaty at Edwardsville, Illinois (7 Stat. 181) with the "Peoria, Kaskaskia, Mitchigamia, Cahokia and Tamarois, tribes of the Illinois nation of Indians". The preamble and Article 1 of the treaty read:

WHEREAS, by the treaty made at Vincennes, on the thirteenth day of August, in the year of our Lord one thousand eight hundred and three, between the United States, of the one part, and the head chiefs and warriors of the tribe of Indians commonly called the Kaskaskia tribe, but which was composed of, and rightfully represented, the Kaskaskia, Mitchigamia, Cahokia, and Tamarois, tribes of the Illinois nation of Indians, of the other part, a certain tract of land was ceded to the United States, which was supposed to include all the land claimed by those respective tribes, but which did not include, and was not intended to include, the land which was rightfully claimed by the Peoria Indians, a tribe of the Illinois nation, who then did, and still do, live separate and apart from the tribes abovementioned, and who were not represented in the treaty referred to above, nor ever received any part of the consideration given for the cession of land therein mentioned: And whereas the said tribe of Peoria are now also disposed to cede all their land to the United States, and, for the purpose of avoiding any dispute with regard to the boundary of their claim, are willing to unite with the Kaskaskia, Mitchigamia, Cahokia, and Tamarois, tribes, in confirming the cession of land to the United States, which was made by the treaty above referred to, and in extending the cession so as to include all the land claimed by those tribes, and themselves, respectively:

ART. 1. For which purpose the undersigned, head chiefs and warriors of the Peoria, Kaskaskia, Mitchigamia, Cahokia, and Tamarois, tribes of the Illinois nation of Indians, for the considerations hereinafter mentioned, do hereby relinquish, cede, and confirm, to the United States, all the land included within the following boundaries, viz: Beginning at the confluence of the Ohio and Mississippi rivers; thence, up the Ohio, to the mouth of Saline creek, about twelve miles below the mouth of the Wabash; thence, along the dividing ridge between the waters of said creek and the Wabash, to the general dividing ridge between the waters which fall into the Wabash and those which fall into the Kaskaskia river; thence, along the said ridge, until it reaches the waters which fall into the Illinois river; thence, a direct line to the confluence of the Kankakee and Maple rivers; thence, down the Illinois river, to its confluence with the Mississippi river, and down the latter to the beginning.

The area encompassed by this treaty consists of Royce Areas 48 and 96a in Illinois. This area is designated on Map Appendix I, at page infra, by the symbols A, A', B and D. This treaty was concluded with the view of quieting all claims that any tribe of the Illinois confederacy might make to the territory described.^{3/}

7. Kaskaskia Title. The interests which the Kaskaskia tribe or nation ceded under the Treaty of August 13, 1803, consisted of:

^{3/} 18 B.A.E. Ann.Rep. pt. 2, 693 (1896-97).

(a) exclusive recognized title to the portion of Royce Area 48 designated as tract A on Map Appendix I hereto, and

(b) a recognized, undivided, one-half interest in the portion of Royce Area 48 designated as tract A' on Map Appendix I. [The other recognized, undivided, one-half interest in tract A' was ceded by the Kickapoo under the Treaty of July 30, 1819 (7 Stat. 200) -- see Finding 20(b).]

The Kaskaskia interests thus ceded, were subject to all exclusions, reservations and prior cessions, specifically, Item (15) ceded under Article III of the Treaty of Greeneville of August 3, 1795; the post of Fort Massac (Royce Area 27) excepted under Article IV of said treaty; Royce Area 47 ceded by the Kaskaskia and other tribes under the Treaty of Fort Wayne of June 7, 1803 (7 Stat. 74); and the 350 acre tract at Kaskaskia reserved under Article 1 of the Kaskaskia Treaty of August 13, 1803.

8. Date of Kaskaskia Cession. The effective date of cession of the Kaskaskia interests (in Docket No. 313) was December 23, 1803, the ratification date of the Kaskaskia cession treaty of August 13, 1803 (7 Stat. 78).

DOCKET NO. 314-A

PEORIA CLAIMS ON BEHALF OF THE WEA

9. Plaintiff's Identity and Capacity to Sue. The Peoria Tribe of Indians of Oklahoma, the corporate plaintiff in Docket No. 314-A, is the same corporate plaintiff as appears in Docket No. 313. The first sentence of Finding 1, supra, with respect to said plaintiff is equally applicable to this docket. Said corporate plaintiff is authorized under Sections 2 and 10 of the Indian Claims Commission Act to present and maintain this action on behalf of its constituent tribe, the Wea Nation.

There were at the date of filing of the petition herein, and are now, living members or descendants of members of the Wea nation or tribe of Indians, and the individual plaintiff is a member of the Wea nation or tribe. Peoria Tribe of Indians v. United States, Docket No. 65, et al., 4 Ind. Cl. Comm. 223, 238, aff'd on the grounds, 177 Ct. Cl. 762 (1965), rev'd on the grounds, 390 U.S. 468 (1968); Kickapoo Tribe v. United States, Docket Nos. 317 and 314-C, 10 Ind. Cl. Comm. 271, Finding 7 at 275 (1962), aff'd on other grounds, 174 Ct. Cl. 550 (1966).

10. Plaintiff's Claim In Docket No. 314-A. In Docket No. 314-A the plaintiff alleges that recognized title was conferred upon the Wea Nation under the Treaty of Greeneville of August 3, 1795, and under the Treaty of Grouseland of August 21, 1805 (7 Stat. 91), to Royce Area 98 in Illinois and Indiana (designated as tracts G and I on Map Appendix I) and to a small portion of Royce Area 180 in Indiana (tract H on Map Appendices I and II). The plaintiff alleges that it received unconscionable consideration for said lands when subsequently ceded to the defendant under the Treaty of October 2, 1818 (7 Stat. 186), or, in the alternative, that the defendant, in negotiating said treaty, was guilty of practicing fraud and duress against the plaintiff.

11. Wea Participation In The Recognition Treaties of Greeneville and Grouseland. The "Weas", "Miamis", "Putawatimies", and "Kickapoos", et al., were participants in and signatories to the Treaty of Greeneville of August 3, 1795, and were within the scope of that treaty and the "follow-up" treaties, defining the boundaries of the lands which they then possessed.^{4/}

^{4/} Miami Tribe v. United States, 146 Ct. Cl. 421, 175 F. Supp. 926 (1959), aff'g in part, rev'g in part, Docket Nos. 67 and 124, 2 Ind. Cl. Comm. 617 (1954).

By Article III of the Treaty of Greeneville of August 3, 1795, the participating tribes ceded to the United States various tracts or "pieces" of land. Item (7) of the lands thus ceded consisted of "One piece six miles square at the Ouatanon or old Wea Towns on the Wabash river." Although this tract was never surveyed, its approximate boundaries are shown in scarlet on the Royce map of Indiana.^{5/} The northern third of Item (7) lies in the eastern portion of Royce Area 98, designated as tract I on Map Appendix I.

Under Article 8 of the Treaty of September 20, 1809 (7 Stat. 113), the United States relinquished to the "Putawatimies" and other tribes, its right to Item (7) "[S]o far at least as to make no further use of it than for the establishment of a military post." The Weas were not a party to the 1809 treaty.

Article IV of the Treaty of Grouseland of August 21, 1805, provides:

As the tribes which are now called the Miamis, Eel River, and Weas, were formerly and still consider themselves as one nation, and as they have determined that neither of these tribes shall dispose of any part of the country which they hold in common; in order to quiet their minds on that head, the United States do hereby engage to consider them as joint owners of all the country on the Wabash and its waters, above the Vincennes tract, and which has not been ceded to the United States, by this or any former treaty; and they do farther engage that they will not purchase any part of the said country without the consent of each of the said tribes, [Emphasis added] Provided always, That nothing in this section contained, shall in any manner weaken or destroy any claim which the Kickapoos, who are not represented at this treaty, may have to the country they now occupy on the Vermillion river.

^{5/} 18 B.A.E. Ann. Rep. pt. 2, plat 19 (1896-97). The tract is also shown on Map Appendices I and II, at pp. 79 and 80, supra.

The reference in Article IV to the "Wabash and its waters" refers to the Wabash watershed, the northern extent of which is indicated by the dashed line on Map Appendix II, at p. 80 , supra, as adapted from the blue line on Wea Ex. A-1 in Docket No. 254. As explained in greater detail in Finding 19, at p.106 , infra, Royce used a straight line in mapping the portion of this watershed which forms the northern boundary of tract H. The area described in Article IV of the Treaty of August 21, 1805, thus encompasses Royce Area 98 in Illinois and Indiana, and that portion of the southwest corner of Royce Area 180 in Indiana designated as tract H on Map Appendix II.

12. Partition Of Lands Between Wea And Eel River Tribes. Subsequent to the 1805 Treaty of Grouseland and prior to 1818, the Wea separated from the Miami and Eel River tribes and divided the lands on the Wabash and its waters which they previously possessed in common. The United States, by the nature of its negotiations and the treaties made, acknowledged this division and ownership. South of the Wabash River the Wea interest lay to the west and the Miami-Eel River interest to the east of a line drawn south from the Wabash River just south of the mouth of the Tippecanoe River, which forms the eastern boundary of Royce Area 98 in Indiana.^{6/} In these proceedings the Wea and Miami have stipulated that the partition line continues north from the Wabash River along the Tippecanoe River to the northeast corner of Royce Area 98, and thence due north to Lake Michigan. They stipulate that as between the Wea and the Miami-Eel River, all of the lands in the Wabash watershed

^{6/} Wea Proposed Finding 11, and Miami Tribe, n. 15, supra, 2 Ind. Cl. 617 at 628, 643, 644.

west of said line (including Royce Area 98 and that portion of Royce Area 180 designated as tract H) belonged to the Wea and the lands in the Wabash watershed to the east of said line belonged to the Miami-Eel River. This stipulation is an accurate demarcation of the interests of Wea vis-a-vis the Miami-Eel River.

13. Wea Cession, Use And Occupancy Of Royce Area 98 In Illinois And Indiana, And Of Part Of Royce Area 180 In Indiana. By the Treaty of October 2, 1818 (7 Stat. 186), the Wea Tribe of Indians ceded to the United States "[A]ll the lands claimed and owned by said tribe within the limits of the states of Indiana, Ohio and Illinois." This indefinite area, which was more specifically covered by cessions of other tribes, encompassed Royce Area 98 in Illinois and Indiana and that portion of the southwest corner of Royce Area 180 in Indiana, designated as tract H on Map Appendix II.

Evidence of Wea use and occupancy of the above described area is found:

(a) in Gamelin's April, 1790, message to Gov. St. Clair stating that the Kickapoos he encountered, apparently in the western portion of Royce Area 98, could not respond to his speeches "[W]ithout consulting with the Ouiatanons [Weas], being the owners of their lands";

(b) in Bodley's report of June 12, 1795, describing the large Wea village of "Ouiattanon" on the south bank of the Wabash opposite the central portion of Royce Area 98, and recording that the "Potawatomy & Weyaw [Wea] Indians" had about 200 acres under cultivation at an old village about a half mile up the Tippecanoe River from its mouth;

(c) in the Greeneville Treaty journal entry of July 21, 1795, recording the statement of the spokesman for the Wea, that General Washington had given them papers protecting them in the possession of their lands, and that they could not give General Wayne the requested reservation at "Ouiatonon", but would lend him some lands as long as he wished; and

(d) in United States Topographical Bureau maps of 1815 and 1818 designating Royce Area 98 as "Land purchased from the Weas, Potowatows and Kickapoos", and showing a Wea village in the center of the southern portion of Royce Area 98.

14. Wea Title. The Wea title which was ceded under the Treaty of October 2, 1818 consisted of:

(a) a recognized, undivided, one-third interest in the western portion of Royce Area 98 designated as tract G on Map Appendix I. [The remaining interests in tract G were held jointly by the Potawatomi, who ceded a recognized, undivided, one-third interest in tract G, under the Potawatomi Treaty of October 2, 1818 (7 Stat. 185)--see Finding 28(a); and the Kickapoo, who ceded a recognized, undivided, one-third interest in tract G, under the Treaty of July 30, 1819 (7 Stat. 200), and the Treaty of August 30, 1819 (7 Stat. 202)--see Finding 20(c).];

(b) a recognized, undivided, one-half interest in the eastern portion of Royce Area 98 designated as tract I on Map Appendix I, except for Item (7) ceded under Article III of the Treaty of Greeneville of August 3, 1795 [The remaining recognized, undivided, one-half interest in tract I, was ceded by the Potawatomi under the Potawatomi Treaty of October 2, 1818 (7 Stat. 185)--see Finding 28(b).]; and

(c) a recognized, undivided, one-third interest in the portion of Royce Area 180 designated as tract H on Map Appendix II. [The remaining interests in tract H were held jointly by the Kickapoo, who ceded a recognized, undivided, one-third interest in tract H under the Treaty of July 30, 1819 (7 Stat. 200), and under the Treaty of August 30, 1819 (7 Stat. 202)--see Finding 20(d); and the Potawatomi, who ceded a like interest in tract H under the Treaty of October 26, 1832 (7 Stat. 394)--see Finding 36.]

15. Date of Wea Cession. The effective date of cession of the Wea interests was October 2, 1818, the date the Wea treaty of cession (7 Stat. 186) was signed and concluded by the parties.

DOCKET NO. 315

KICKAPOO CLAIMS

16. Plaintiffs' Identity And Capacity To Sue. The plaintiffs in Docket No. 315 are:

THE KICKAPOO TRIBE OF KANSAS,
THE KICKAPOO TRIBE OF OKLAHOMA,
THE KICKAPOO NATION

The Kickapoo Tribe of Kansas, and the Kickapoo Tribe of Oklahoma, hereinafter referred to as the Kickapoo plaintiffs, are authorized under

Sections 2 and 10 of the Indian Claims Commission Act to present and maintain this action on behalf of the Kickapoo Nation.^{7/}

17. Plaintiffs' Claim in Docket No. 315. The Kickapoo plaintiffs' unconscionable consideration claim in Docket No. 315 is based in part upon alleged Indian title, and upon alleged recognized title in the Kickapoo Nation under the Treaty of Greeneville of August 3, 1795, to lands in the present states of Illinois and Indiana, designated as Royce Area 110. They allege that they received unconscionable consideration when said lands were ceded to the defendant under the treaties of July 30, 1819 (7 Stat. 200), and August 30, 1819 (7 Stat. 202).

The pertinent portions of Royce Area 110 are shown on Map Appendix I as tracts A', B, C, D, E, G, and H. The small, pie-shaped southeast corner of Royce Area 110 was the subject of Docket No. 99, and is not involved in this proceeding. Royce Area 110 entirely overlaps Royce Area 96a, and partially overlaps Royce Areas 48, 98,

^{7/} Kickapoo Tribe v. United States, Docket Nos. 317 and 314-C, 10 Ind. Cl. Comm. 271, Finding 1, at 271 (1962), aff'd on other grounds, 174 Ct. Cl. 550 (1966).

177 and 180. As indicated by Appendix III, at p. 81, supra, said areas are also variously claimed by all of the other plaintiffs in this consolidation.

18. The Government Dealt With The Kickapoos as a Single Political Entity.^{8/} We find from a review of the treaties involved in this proceeding that the Government's overall intent was to deal with the Kickapoo Indians as a consolidated tribe or nation.

19. Kickapoo Cession Of Royce Area 110 In Illinois and Indiana. By Article 2 of the Treaty of October 2, 1818 (7 Stat. 185), between the "Potawatomie nation" and the United States, the latter agreed "[T]o purchase any just claim which the Kickapoo may have to any part of the country" thereby ceded below Pine Creek. Pine Creek forms the boundary between tracts B and I of Royce Area 98 on Map Appendix I. Said purchase was accomplished by the Kickapoo treaties of July 30 and August 30, 1819.

By the Treaty of July 30, 1819 (7 Stat. 200), "the Kickapoo Tribe of Indians" ceded to the defendant its title to the major portions of Royce Area 110. The land involved, was partially described in Articles 1, 2, and 10 of the treaty as follows:

^{8/} See Opinion, p. 68, supra.

Art. 1

. . . .

. . . . Beginning on the Wabash river, at the upper point of their cession, made by the second article of their treaty at Vincennes, on the 9th December, 1809; running thence, northwestwardly, to the dividing line between the states of Illinois and Indiana; thence, along said line, to the Kankakee river; thence, with said river, to the Illinois river; thence, down the latter, to its mouth; thence, with a direct line, to the northwest corner of the Vincennes tract, as recognized in the treaty with the Piankeshaw tribe of Indians at Vincennes, on the 30th December, 1805; and thence, with the western and northern boundaries of the cessions heretofore made by the said Kickapoo tribe of Indians, to the beginning. Of which last described tract of land, the said Kickapoo tribe claim a large portion, by descent from their ancestors, and the balance by conquest from the Illinois nation, and uninterrupted possession for more than half a century.

Art. 2. The said tribe hereby confirm all their former treaties with the United States, and relinquish to them all claim to every portion of their lands which may have been ceded by any other tribe or tribes, and all and every demand which they might have had, in consequence of the second article of the treaty made with the Pottawattamy nation of Indians at St. Mary's on the 2d October, 1818.

Art. 10. The said tribe, in addition to their above described cessions, do hereby cede and relinquish to the United States, generally, and without reservation, all other tracts of land to which they have any right or title on the left side of the Illinois and Mississippi rivers.

By the Treaty of August 30, 1819 (7 Stat. 202), the "Chiefs, Warriors, and Head Men, of the tribe of Kickapoos of the Vermillion" ceded to the defendant their title to an area which completed Royce Area 110 and in part overlapped the cession of July 30, 1819. Articles 1 and 2 described the ceded area as follows:

Art. 1. The Chiefs, Warriors, and Head Men, of the said tribe, agree to cede, and hereby relinquish, to the United States, all the lands which the said tribe has heretofore possessed, or which they may rightfully claim, on the Wabash river, or any of its waters.

Art. 2. And to the end that the United States may be enabled to fix with the other Indian tribes a boundary between their respective claims, the Chiefs, Warriors, and Head Men, of the said tribe, do hereby declare, that their rightful claim is as follows, viz: beginning at the northwest corner of the Vincennes tract; thence, westwardly, by the boundary established by a treaty with the Piankeshaws, on the thirtieth day of December, eighteen hundred and five, to the dividing ridge between the waters of the Embarras and the Little Wabash; thence, by the said ridge, to the source of the Vermilion river; thence, by the same ridge, to the head of Pine creek; thence, by the said creek, to the Wabash river; thence, by the said river, to the mouth of the Vermilion river, and thence by the Vermilion, and the boundary heretofore established, to the place of beginning. [Emphasis added.]

The cessions under the Treaties of July 30, 1819, and August 30, 1819, have been mapped as Royce Area 110, located principally in Illinois, and with a small portion in western Indiana. The "Ridge, to the head of Pine Creek" referred to in the August 30, 1819 treaty, is part of the Wabash Watershed. Royce mapped it arbitrarily as a straight line. There is a discrepancy however between the several Royce maps depicting this line. The Royce map of Illinois 2, (18 B.A.E. Ann. Rep. pt. 2., plat 18 (1896-97), shows this line extending into Indiana to the head of Pine Creek. The plaintiffs in Docket Nos. 315, 314-A, 306, 311, 15-D, and 15-P have drawn a similar line (extending to the watershed at the head of Pine Creek) on their map Appendix No. 2 at page 71 of their joint brief. These lines improperly include within the watershed, a considerable amount of land which lies north of the ridge called for in the

treaty. The Royce map of Indiana (18 B.A.E. Ann. Rep. pt. 2, plat 19 (1896-97)) also depicts this border as a straight line, but at a less acute angle. We have adopted the latter line on Map Appendices I and II, supra. This line approximates the contour of the ridge and thus forms a reasonable basis for the northern boundary of tract H.

20. Kickapoo Title. The Kickapoo title which was ceded under the Treaties of July 30 and August 30, 1819, consisted of:

(a) exclusive, recognized title to the portion of Royce Area 110 designated as tracts B and C on Map Appendix I;

(b) a recognized, undivided, one-half interest in the portion of Royce Area 110 designated as tracts A', D and E on Map Appendix I [The other recognized, undivided, one-half interest in tract A' was ceded by the Kaskaskia under the Treaty of August 13, 1803 (7 Stat. 78)--see Finding 7(b); the other recognized, undivided, one-half interest in tracts D and E were ceded by the Potawatomi under the Treaty of October 20, 1832 (7 Stat. 378)--see Finding 32(b).];

(c) a recognized, undivided, one-third interest in the portion of Royce Area 110 designated as tract G on Map Appendix I [The remaining interests in tract G were held jointly by the Potawatomi, who ceded a recognized, undivided one-third interest under the Potawatomi Treaty of October 2, 1818 (7 Stat. 185)--see Finding 28(a); and the Wea, who

ceded a like interest, under the Wea Treaty of October 2, 1818 (7 Stat. 186)--see Finding 14(a).]; and

(d) a recognized, undivided, one-third interest in the portion of Royce Area 110 designated as tract H on Map Appendix II. [The remaining interests in tract H were held jointly by the Wea, who ceded a recognized, undivided, one-third interest under the Wea Treaty of October 2, 1818 (7 Stat. 186)--see Finding 14(c); and the Potawatomi, who ceded a like interest under the Treaty of October 26, 1832 (7 Stat. 394)--see Finding 36.]

The Kickapoo interests thus ceded, were subject to prior cessions, specifically Items (15) and (16) ceded under Article III of the Treaty of Greenville of August 3, 1795.^{9/}

21. Date of Kickapoo Cession. The Treaty of July 30, 1819, (7 Stat. 200) became effective on the date it was signed and concluded by the parties. The Treaty of August 30, 1819 (7 Stat. 202), became effective on May 10, 1820, the date it was ratified. This latter date is the effective date of the cession of the Kickapoo interests herein.

Docket Nos. 124-H and 254

MIAMI CLAIMS TO ROYCE AREAS 98 AND 180

22. The Miami Plaintiffs Have No Compensable Interest. The Miami plaintiffs in Docket Nos. 124-H and 254 have stipulated,^{10/} in effect, that the Miami have no compensable interest in the lands which are the basis of their claim herein, viz., the eastern three-fourths of Royce Area 98 (claimed in Docket No. 124-H) and the portion of Royce Area 180 designated as tract H on Map Appendices I and II, infra (claimed in Docket No. 254).

^{9/} James Strong v. United States, Docket No. 13-G, et al., 27 Ind. Cl. Comm. 59, 66-70 (1972).

^{10/} Tr. 127-133, Docket No. 314, et al., (1967). See also Finding 12, supra.

DOCKET NOS. 15-D, 15-P, 15-Q, 29-B, 29-N, 29-O, 306, 309 AND 311

POTAWATOMI CLAIMS

23. Plaintiffs' Identity And Capacity To Sue. The Prairie Band of the Pottawatomi Tribe of Indians (plaintiff in Docket Nos. 15-D, P, and Q); the Hannahville Indian Community, and the Forest County Potawatomi Community (plaintiffs in Docket Nos. 29-B, N, and O); and the Citizen Band of Potawatomi Indians of Oklahoma (plaintiff in Docket Nos. 306, 309 and 311), are identifiable groups of American Indians. They are authorized under Sections 2 and 10 of the Indian Claims Commission Act, to present and maintain these actions in a representative capacity for and on behalf of the Potawatomi tribe or nation, as it existed at the times of the treaties involved in these dockets.

24. Intervenor's Identity And Capacity To Intervene. The Potawatomi Indians of Indiana and Michigan, Inc., is an identifiable group of American Indians residing within the territorial limits of the United States, with the right and legal capacity under the Indian Claims Commission Act, to intervene herein, in a representative capacity, for and on behalf of the Potawatomi tribe or nation.^{11/}

25. Potawatomi Tribe Participated In Greeneville Treaty. The Potawatomi tribe or nation was a participant in the Treaty of Greeneville of August 3, 1795.^{12/}

DOCKET NOS. 15-D, 29-B, AND 311

POTAWATOMI CLAIMS TO ROYCE AREA 98

26. Plaintiffs' Claim In Docket Nos. 15-D, 29-B, And 311. In Docket Nos. 15-D, 29-B, and 311, the plaintiffs allege that they acquired

^{11/} Prairie Band of the Potawatomi Tribe of Indians v. United States, Docket Nos. 15-C, et al., Finding 3, 28 Ind. Cl. Comm. 454, 470 (1972).

^{12/} Citizen Band of Potawatomi Indians v. United States, Docket No. 71, et al., 27 Ind. Cl. Comm. 187, 203 (1972).

recognized title under the Treaty of Greeneville of August 3, 1795, to Royce Area 98 in Illinois and Indiana, and that they were paid unconscionable consideration when Royce Area 98 was ceded by their ancestors under the Treaty of October 2, 1818 (7 Stat. 185).

27. Description Of The Area Ceded Under October 2, 1818 Treaty.

Article I of the Treaty of October 2, 1818, (7 Stat. 185), in part describes the area ceded thereunder as:

Beginning at the mouth of the Tippecanoe river, and running up the same to a point twenty-five miles in a direct line from the Wabash river -- thence on a line as nearly parallel to the general course of the Wabash river as practicable, to a point on the Vermilion river, twenty-five miles from the Wabash river; thence, down the Vermilion river to its mouth, and thence, up the Wabash river, to the place of beginning.

This portion of the area ceded subsequently was mapped as Royce Area 98 in Illinois and Indiana. ^{13/}

Under Article I of the Treaty of October 2, 1818, the Potawatomis also ceded to the United States, "all their claim to the country south of the Wabash River." This portion of the cession is not the subject of this suit.

^{13/} 18 B.A.E. Ann. Rep. pt. 2., plats 17, 19 (1896-97).

28. Potawatomi Title To Royce Area 98. By the Treaty of October 2, 1818, the Potawatomi tribe ceded to the United States all of its interest in Royce Area 98, viz:

(a) a recognized, undivided, one-third interest in the portion of Royce Area 98 designated as tract G on Map Appendix I, at p. , infra [The remaining interests in tract G were held jointly by the Wea, who ceded a recognized, undivided, one-third interest under the Wea Treaty of October 2, 1818 (7 Stat. 186)--see Finding 14 (a); and by the Kickapoo, who ceded a like interest under the Treaty of July 30, 1819 (7 Stat. 200) and the Treaty of August 30, 1819 (7 Stat. 202)--see Finding 20 (c)]; and

(b) a recognized, undivided, one-half interest in the portion of Royce Area 98, designated as tract I on Map Appendix I. Said interest was subject to the right of the United States to establish a military post at the old Wea towns (see Finding 11, supra). [The other recognized, undivided, one-half interest in tract I, was ceded by the Wea under the Wea Treaty of October 2, 1818 (7 Stat. 186)--see Finding 14 (b).]

29. Effective Date of Treaty of October 2, 1818. The effective date of cession of the Potawatomi interests under the Treaty of October 2, 1818, (7 Stat. 185) was the date it was signed and concluded by the parties, viz., October 2, 1818.

DOCKET NOS. 15-P, 29-N, and 306

POTAWATOMI CLAIMS TO ROYCE AREA 177

30. Plaintiffs' Claim In Docket Nos. 15-P, 29-N, and 306. The

Potawatomi plaintiffs in Docket Nos. 15-P, 29-N and 306 allege that they acquired recognized title to Royce Area 177 in Illinois under the Treaty of Greeneville of August 3, 1795, and that unconscionable consideration was paid when their ancestors ceded the area under the Treaty of October 20, 1832 (7 Stat. 378).

31. Description Of The Area Ceded Under October 20, 1832 Treaty.

Article 1 of the Treaty of October 20, 1832 (7 Stat. 378), describes the area ceded thereunder as:

Beginning at a point on Lake Michigan ten miles southward of the mouth of Chicago river; thence, in a direct line, to a point on the Kaukakee [Kankakee] river, ten miles above its mouth; thence, with said river and the Illinois river, to the mouth of Fox river, being the boundary of a cession made by them in 1816; thence, with the southern boundary of the Indian Territory, to the State line between Illinois and Indiana; thence, north with said line, to Lake Michigan; thence, with the shore of Lake Michigan, to the point of beginning.

The area subsequently was mapped as Royce Area 177 in Illinois.^{14/}

32. Potawatomi Title to Royce Area 177. By the Treaty of October 20, 1832, the Potawatomi Tribe ceded to the United States all of its interest in Royce Area 177 (subject to the reserves within Royce Area 177 provided

^{14/} 18 B.A.E. Ann. Rep. Pt. 2, plat 17 (1896-97).

for by Article II of that treaty), viz:

(a) exclusive, recognized, title to the portion of Royce 177 designated as tract F on Map Appendix I, at p. 79, supra, and

(b) a recognized, undivided, one-half interest in the portions of Royce Area 177 designated as tracts D and E on Map Appendix I. [The other recognized, undivided, one-half interest in tracts D and E were ceded by the Kickapoo under the Treaty of July 30, 1819 (7 Stat. 200)--see Finding 20(b).]

33. Effective Date of Treaty of October 20, 1832. The effective date of cession of the Potawatomi interests under the Treaty of October 20, 1832, (7 Stat. 378) was the date on which the treaty was signed and concluded by the parties, viz., October 20, 1832.

DOCKET NOS. 15-Q, 29-0, and 309

POTAWATOMI CLAIMS TO PART OF ROYCE AREA 180

34. Plaintiffs' Claim In Docket Nos. 15-Q, 29-0, and 309. The Potawatomi plaintiffs in Docket Nos. 15-Q, 29-0, and 309 all claim an interest in the portion of Royce Area 180 designated as tract H on Map Appendices I and II, at pp. 79, 80, supra. Their claims are based upon recognized title arising from the Treaty of Greeneville of August 3, 1795, and in part upon alleged unconscionable consideration received by their ancestors, who ceded the area under the Treaty of October 26, 1832 (7 Stat. 394).

35. The Area In Suit. Article 1 of the Treaty of October 26, 1832 (7 Stat. 394), describes the area ceded thereunder as lands in the State of Indiana:

Beginning at a point on Lake Michigan, where the line dividing the States of Indiana and Illinois intersects the same; thence with the margin of said Lake, to the intersection of the southern boundary of a cession made by the Potawatimies, at the treaty of the Wabash, of eighteen hundred and twenty-six; thence east, to the north-west corner of the cession made by the treaty of St. Joseph's, in eighteen hundred and twenty-eight; thence south ten miles; thence with the Indian boundary line to the Michigan road; thence south with said road to the northern boundary line, as designated in the treaty of eighteen hundred and twenty-six, with the Pottawatimies; thence west with the Indian boundary line to the river Tippecanoe; thence with the Indian boundary line, as established by the treaty of eighteen hundred and eighteen, at St. Mary's to the line dividing the States of Indiana and Illinois; and thence north, with the line dividing the said States, to the place of beginning.

The area subsequently was mapped as Royce Area 180 in Indiana.^{15/} The southwest corner of Royce Area 180 overlaps Royce Area 115 ceded by the Kickapoos under the treaties of July 30, 1819, and August 30, 1819.^{16/} The overlap, designated as tract H, on Map Appendicies I and II at pp. 79 , 80 , infra, is the land area involved in Docket Nos. 15-Q, 29-0, and 309. As discussed in Finding 10, supra, the Wea also ceded the area under the Treaty of October 2, 1818.

36. Potawatomi Title to Tract H Of Royce Area 180. By the Treaty of October 26, 1832, the Potawatomi Tribe ceded to the United States all

^{15/} 18 B.A.E. Ann. Rep. pt. 2, plat 19 (1896-97).

^{16/} See Findings 17 and 19, supra.

of its interest in the portion of Royce Area 180 designated as tract H on Map Appendices I and II (subject to the reservation provisions of Article II of that treaty), viz., a recognized, undivided, one-third interest. [The remaining interests in tract H were held jointly by the Wea, who ceded a recognized, undivided, one-third interest under the Wea Treaty of October 2, 1818 (7 Stat. 186) -- see Finding 14(c); and by the Kickapoo, who ceded a like interest under the Treaty of July 30, 1819 (7 Stat. 200) and August 30, 1819 (7 Stat. 202) -- see Finding 20(d).]

37. Effective Date of Treaty of October 26, 1832. The effective date of cession of the Potawatomi interests under the Treaty of October 26, 1832, (7 Stat. 394) was the date on which the treaty was signed and concluded by the parties, viz., October 26, 1832.

CONCLUSIONS OF LAW

Upon the foregoing Opinion and Findings of Fact the Commission concludes as a matter of law that:

1. In respect to Docket No. 313:

a. The corporate plaintiff, The Peoria Tribe of Indians of Oklahoma, has the right and legal capacity under Sections 2 and 10 of the Indian Claims Commission Act (60 Stat. 1094) to present and maintain this action on behalf of its constituent tribes the Peoria Nation and the Kaskaskia Nation.

b. Under Section 10 of the Indian Claims Commission Act, the individual plaintiffs have no standing to present or maintain this suit.

c. The Kaskaskia tribe or nation was a participant on its own behalf at the Treaty of Greeneville of August 3, 1795, and under that treaty and follow-up cession treaty of August 13, 1803, gained a recognized title interest in Royce Area 48. That interest, as described in Finding 7, was ceded by the Kaskaskia Tribe to the defendant under the Treaty of August 13, 1803.

d. The Peoria tribe or nation was not a part of nor represented by the Kaskaskia tribe or nation at the Treaty of Greeneville of August 3, 1795, and did not participate therein nor gain recognized title to any land in consequence thereof.

e. By the Treaty of August 13, 1803, the Kaskaskia tribe or nation ceded to the defendant its entire interest in Royce Area 48, as described in Finding 7, supra.

f. The Treaty of September 25, 1818, was not a treaty of recognition. It was a confirmation by the Peoria, of the cession of Royce Area 48, by the Kaskaskia (including the Mitchigamia, Cahokia and Tamarois), under the Treaty of August 13, 1803. It was also a relinquishment by the Kaskaskia of any claim of title to Royce Area 96a, and a confirmation by the Kaskaskia to the Peoria of any interest therein.

g. At the time of the Treaty of September 25, 1818, the Peoria tribe or nation had neither recognized title nor Indian title to Royce Area 96a, having abandoned said area to other tribes prior to 1775.

h. The effective date of cession of the Kaskaskia interest in Royce Area 48, was December 23, 1803, the ratification date of the Kaskaskia cession treaty of August 13, 1803.

2. In respect to Docket No. 314-A:

a. The corporate plaintiff, the Peoria Tribe of Indians of Oklahoma, has the right and legal capacity under Sections 2 and 10 of the Indian Claims Commission Act to present and maintain this action on behalf of its constituent tribe the Wea Nation.

b. Under Section 10 of the Indian Claims Commission Act the individual plaintiff has no standing to present or maintain this suit.

c. Through participation in the Treaty of Greeneville of August 3, 1795, and the Treaty of Grouseland of August 21, 1805, and the follow-up cession treaty of October 2, 1818, the Wea Nation gained a recognized title interest in Royce Area 98 and in that portion of Royce Area 180 designated as tract H on Map Appendix II.

d. At and before the time of the Treaty of Grouseland of August 21, 1805, the Miami, Eel River and Wea were one nation. Subsequent to the Treaty of Grouseland and prior to 1818, the Wea separated from the Miami and Eel River tribes, and divided the lands in the Wabash watershed, with the Wea retaining an interest in those lands sued for herein and the Miami-Eel River retaining lands to the east thereof as described in the stipulation referred to in Finding 12.

e. Under the Treaty of October 2, 1818, the Wea ceded to the United States their title to Royce Area 98 and to that portion of Royce Area 180 designated as tract H on Map Appendix II. The Wea title thus ceded is described in Finding 14, supra.

f. The effective date of cession of the Wea interests under the Treaty of October 2, 1818, was the date on which the treaty was signed and concluded by the parties, viz., October 2, 1818.

3. In respect to Docket No. 315:

a. The corporate plaintiffs, The Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma, have the legal capacity under Sections 2 and 10 of the Indian Claims Commission Act to present and maintain this action on behalf of the Kickapoo Nation.

b. Under Section 10 of the Indian Claims Commission Act the remaining plaintiff has no standing to present or maintain this suit.

c. Throughout the treaty period involved herein, the Vermilion and Prairie Bands of Kickapoo constituted a single political entity, viz., the Kickapoo tribe or nation.

d. Through participation in the Treaty of Greeneville of August 3, 1795, the Treaty of Grouseland of August 21, 1805, and the follow-up cession treaties of July 30, 1819 and August 30, 1819, the Kickapoo tribe or nation gained a recognized title interest in Royce Area 110.

e. Under the Treaty of July 30, 1819, and the Treaty of August 30, 1819, the Kickapoo tribe or nation ceded to the United States its title to all of Royce Area 110 as described in Finding 20, supra.

f. The effective date of cession of the Kickapoo interests under the Treaties of July 30, 1819, and August 30, 1819, was May 10, 1820, the date on which the Treaty of August 30, 1819, was ratified.

4. The Miami plaintiffs in Docket Nos. 124-H, and 254 have no compensable interest in the subject matter herein.

5. In respect to Docket Nos. 15-D, 15-P, 15-Q, 29-B, 29-N, 29-O, 306, 309, and 311:

a. The Potawatomi plaintiffs designated in Finding 26 have the legal capacity under Sections 2 and 10 of the Indian Claims Commission Act to present and maintain this suit in a representative capacity for and on behalf of the Potawatomi tribe or nation.

b. Under Section 10 of the Indian Claims Commission Act the individual plaintiffs in Docket Nos. 15-D, 15-P, 15-Q, 306, 309, and 311 have no standing to present or maintain this suit.

c. Frank Wandesege, Sr., Elijah Petonquot, Ike George, Valentine Ritchie, Michael Williams, Albert N. Mackety, and The Potawatomi Indians of Indiana and Michigan, Inc. were never admitted as plaintiffs in Docket Nos. 29-B, 29-N or 29-O.

d. The Potawatomi Indians of Indiana and Michigan, Inc., has the legal capacity under Section 10 of the Indian Claims Commission Act to intervene herein, in a representative capacity, for and on behalf of the Potawatomi tribe or nation.

e. The Potawatomi tribe or nation was a participant in the Treaty of Greeneville of August 3, 1795, and by that treaty and subsequent "follow-up" treaties, gained a recognized title interest in the lands claimed by the Potawatomi plaintiffs herein. Said interest is described in detail in Findings 28, 32, and 36.

f. By the Treaty of October 2, 1818, the Potawatomi Tribe ceded to the United States all of its interest in Royce Area 98, as more particularly described in Finding 28.


g. The effective date of cession of the Potawatomi interests under the Treaty of October 2, 1818, was the date on which that treaty was signed and concluded by the parties, viz., October 2, 1818.

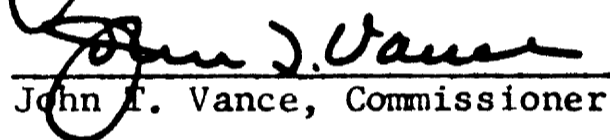
h. By the Treaty of October 20, 1832, the Potawatomi Tribe ceded to the United States all of its interest in Royce Area 177, as more particularly described in Finding 32.

i. The effective date of cession of the Potawatomi interests under the Treaty of October 20, 1832, was the date on which that treaty was signed and concluded by the parties, viz., October 20, 1832.

j. By the Treaty of October 26, 1832, the Potawatomi Tribe ceded to the United States all of its interest in the portion of Royce Area 180 designated as tract H on Map Appendices I and II, which interest is more particularly described in Finding 36.

k. The effective date of cession of the Potawatomi interests under the Treaty of October 26, 1832, was the date on which the treaty was signed and concluded by the parties, viz., October 26, 1832.


Jerome K. Kuykendall, Chairman


John F. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner