

BEFORE THE INDIAN CLAIMS COMMISSION

JAMES STRONG, <u>et al.</u> , as the representatives)	
and on behalf of all members by blood of)	Docket No. 13-G
the CHIPPEWA TRIBE OF INDIANS,)	
)	
THE POTTAWATOMIE TRIBE OF INDIANS, THE)	
PRAIRIE BAND OF THE POTTAWATOMIE TRIBE)	Docket No. 15-E
OF INDIANS, <u>et al.</u> ,)	
)	
RED LAKE BAND, <u>et al.</u> ,)	Docket No. 18-M
)	
THE DELAWARE TRIBE OF INDIANS,)	Docket No. 27-B
)	
HANNAHVILLE INDIAN COMMUNITY, <u>et al.</u> ,)	Docket No. 29-C
)	
ROBERT DOMINIC, <u>et al.</u> , on behalf of)	
THE OTTAWA TRIBE OF INDIANS,)	Docket No. 40-F
)	
SHAWNEE TRIBE OF INDIANS OF OKLAHOMA,)	
<u>et al.</u> ,)	Docket No. 64
)	
THE SIX NATIONS, <u>et al.</u> ,)	Docket No. 89
)	
LAWRENCE ZANE, <u>et al.</u> , <u>ex rel.</u>)	
WYANDOT TRIBE, <u>et al.</u> ,)	Docket No. 120
)	
IRA SYLVESTER GODFROY, <u>et al.</u> , <u>ex rel.</u>)	
THE MIAMI INDIAN TRIBE,)	Docket No. 130
)	
MIAMI TRIBE OF OKLAHOMA, <u>et al.</u> ,)	Docket No. 252
)	
EASTERN SHAWNEE TRIBE OF OKLAHOMA,)	
<u>et al.</u> ,)	Docket No. 335
)	
ABSENTEE DELAWARE TRIBE OF OKLAHOMA,)	
<u>et al.</u> ,)	Docket No. 338
)	
EASTERN SHAWNEE TRIBE OF OKLAHOMA,)	
<u>et al.</u> ,)	Docket No. 338
)	
THE PEORIA TRIBE OF INDIANS OF)	
OKLAHOMA, <u>et al.</u> ,)	Docket No. 338
)	
CITIZEN BAND OF POTAWATOMI INDIANS)	
OF OKLAHOMA, <u>et al.</u> ,)	Docket No. 338
)	
THE KICKAPOO TRIBE OF OKLAHOMA, THE)	
KICKAPOO TRIBE OF KANSAS, <u>et al.</u> ,)	Docket No. 338

THE OTTAWA TRIBE OF OKLAHOMA, <u>et al.</u> ,)	Docket No. 338
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 9, 1973

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Parties.

(a) The plaintiffs in Docket 13-G, James Strong, Elmer B. Simonds, William Robert Warren, Margaret Arvold, Julia Potter, Betty Ann Nordwall, Stanley A. Nordwall and Edwin Carl Lerke, Jr., have brought claims for certain portions of Royce Area 11 and certain of the other tracts ceded at Greeneville ". . . as the representatives and on behalf of the descendants of the members of the Chippewa Nation or Tribe of Indians, including all members by blood of the Chippewa Tribe of Indians, particularly those entitled to share in any recovery had in this action." (See Petition in Docket 13-G, page 2.) The petition in Docket 13-G was filed pursuant to the Commission's order of July 13, 1949, wherein the claims in the original Docket 13 brought by the "Saginaw Chippewa Indian Tribe of Michigan, a Federal Corporation, and James Strong, William Robert Warren, Margaret Arvold, Julia Potter, Stanley A. Nordwall, Betty Ann Nordwall, Edwin Carl Lerke, Jr., and Elmer B. Simonds, et al., as representatives of all members by blood

of the Chippewa Tribe of Indians" were ordered severed and refiled as separate claims. The Court of Claims and this Commission have previously held that the Chippewas were separate bands or groups. See Mole Lake Band v. United States, 126 Ct. Cl. 596, 598 (1953); Red Lake Band v. United States, Dockets 18-E, et al., 7 Ind. Cl. Comm. 576, 579, 607 (1959). However, we have also held that Saginaw Chippewa bands participated in the Greeneville Treaty and were entitled to and received the benefits accorded the participating Indians to that treaty. See Saginaw Chippewa Indian Tribe v. United States, Docket 57, 22 Ind. Cl. Comm. 504, 522 (1970). We find that the plaintiffs in Docket 13-G, James Strong, et al., are authorized to bring this claim on behalf of and as representatives of the descendants of those Chippewas who participated in the 1795 Greeneville Treaty.

The Chippewa plaintiffs in Docket 18-M, the Red Lake Band, et al., including the Bay Mills Indian Community, have asserted claims to Royce Areas 21, 22 and 23 in Michigan which were ceded at Greeneville in 1795. It has previously been determined, in Red Lake Band v. United States, supra, at 608-09, that these plaintiffs have the capacity to prosecute actions on behalf of the Chippewa Indians who resided in northern Michigan, and that Chippewas from these areas participated at Greeneville.

(b) The Citizen Band of Potawatomi Indians, in Docket 338, asserts a claim for Royce Area 24 (Chicago) and two other areas in Illinois,

all of which were ceded at Greeneville in 1795. The Hannahville Indian Community in Docket 29-C and the Prairie Band of the Pottawatomie Tribe of Indians in Docket 15-E have asserted claims for additional compensation for the cession of Royce Area 11 and certain other areas relinquished at the Treaty of Greeneville. These plaintiffs are authorized to bring suits as representatives and on behalf of the Potawatomi Tribe. See Citizen Band v. United States, Dockets 71, et al., 27 Ind. Cl. Comm. 187, 323-24 (1972).

(c) The Delaware Tribe of Indians in Docket 27-B and the Absentee Delaware Tribe of Oklahoma in Docket 338 have jointly asserted claims for additional compensation for Area 11 and various other areas relinquished at Greeneville in 1795. The right of these groups to sue in a representative capacity has heretofore been established before this Commission. See Delaware Tribe v. United States, Dockets 27-A and 241, 2 Ind. Cl. Comm. 536, 537 (1954).

(d) Two groups of Ottawa plaintiffs have filed claims. Robert Dominic, et al., on behalf of the Ottawa Tribe of Indians, have asserted claims in Docket 40-F to Royce Areas 21, 22 and 23 in Michigan. The Ottawa Tribe of Oklahoma in Docket 338 seeks additional compensation for Area 11 and certain other areas relinquished at Greeneville in 1795. The Commission has previously held that aboriginally the Ottawas were separate and independent tribes, bands, or groups, wholly autonomous in their political actions and other movements, that the plaintiffs in Docket 40-F have the capacity to prosecute actions in a representative capacity on behalf of those Ottawa Indians who resided in northern

Michigan and were present at Greeneville, and that the Ottawa plaintiffs in Docket 338 are the descendants of those Ottawas from the Maumee River region who participated in the 1795 Greeneville Treaty. See Ottawa Tribe v. United States, Dockets 40-B, et al., 2 Ind. Cl. Comm. 461, 463-68 (1953); Red Lake Band v. United States, supra, at 587.

(e) Claims for additional compensation for Royce Area 11 and certain of the other areas ceded at Greeneville in 1795 have been asserted by three groups of Shawnee plaintiffs. The claims in Dockets 335 and 338 have been brought by the Eastern Shawnee Tribe of Oklahoma and the Absentee Shawnee Tribe of Oklahoma. It has been determined that these groups have the right to sue in a representative capacity before this Commission. See Absentee Shawnee Tribe v. United States, Docket 334, 6 Ind. Cl. Comm. 377, 397 (1958), aff'd as modified, 151 Ct. Cl. 700 (1960), cert. denied, 366 U. S. 924 (1961). The individual plaintiffs in Docket 64 have, by the Commission's order of October 22, 1969, been deemed authorized to bring suits in a representative capacity on behalf of all members of the Shawnee Tribe of Indians of Oklahoma.

(f) The complaint in Docket 89, claiming additional compensation for portions of Royce Area 11, arising out of certain treaties prior to the 1795 Treaty of Greeneville, was filed on behalf of the Six Nations, the Seneca Nation, the Oneida Nation, the Seneca-Cayuga Tribe of Oklahoma, the Oneida Nation of New York, the Oneida Tribe of Wisconsin, and the Tuscarora Nation. All of these tribes are entitled to sue in a representative capacity under the Indian Claims Commission Act.

See Six Nations v. United States, Dockets 84 and 300-B, 23 Ind. Cl. Comm. 376, 389 (1970).

(g) The plaintiffs in Docket 120, Lawrence Zane, Leonard N. Cotter and Ruth Walters, are individual members by blood of the Wyandot Tribe and the Wyandot Tribe of Oklahoma, incorporated pursuant to Section 3 of the Oklahoma Indian Welfare Act of June 26, 1936 (49 Okla. Stat. 1967). These individuals are authorized to bring this claim in a representative capacity on behalf of all members of said Wyandot Tribe and Wyandot Tribe of Oklahoma.

(h) There are two groups of Miami plaintiffs, those who filed in Docket 252 and those who filed in Docket 130. Both groups assert claims to Royce Area 11 and other areas relinquished at Greeneville in 1795. The plaintiff in Docket 252 is the Miami Tribe of Oklahoma which has been found entitled to sue in a representative capacity before the Indian Claims Commission. See Miami Tribe v. United States, Docket 253, 5 Ind. Cl. Comm. 180, 181 (1957). The plaintiffs in Docket 130 are individuals, the descendants of Miami Indians who either remained in Indiana when the rest of the tribe moved to Kansas or moved west and subsequently returned to Indiana. They are suing in a representative capacity on behalf of all Miami Indians. Their right to do so with respect to the claims accruing before the division of the tribe was also recognized in the above-cited case.

(i) The Peoria Tribe of Oklahoma originated in a merger of the Kaskaskia, Wea, Peoria and Piankeshaw Tribes in 1854. This Commission has determined that the Peoria Tribe may file claims on behalf of its constituent tribes on causes of action accruing before the merger. See Peoria Tribe v. United States, Dockets 65, et al., 4 Ind. Cl. Comm. 223, 238 (1956), aff'd, 169 Ct. Cl. 1009 (1965). The Peoria Tribe has filed several claims in Docket 338 on behalf of its respective constituent tribes for additional compensation for areas other than Royce Area 11 ceded at Greeneville in 1795. It has also asserted a claim to recover one-third of any award in this case to the Miami plaintiffs on the ground that certain of the Peoria Tribe's constituent tribes were a part of the Miami Tribe in 1795.

(j) The Kickapoo Tribe of Kansas and the Kickapoo Tribe of Oklahoma, both organized tribes and plaintiffs in Docket 338, have been found entitled to sue on the claims of the Kickapoo Indians. See Kickapoo Tribe v. United States, Docket 317, 10 Ind. Cl. Comm. 271, 281 (1962), aff'd, 174 Ct. Cl. 550 (1966). These plaintiffs have asserted claims in these proceedings based upon interests in certain of the areas, other than Royce Area 11, ceded at Greeneville in 1795.

2. Bases of Claims. Royce Area 11 and the other tracts, which will be separately delineated below, were relinquished under the Treaty of Greeneville of August 3, 1795, 7 Stat. 49, between the United States and the following-named tribes: Wyandots, Delawares, Shawnees, Ottawas, Chippewas, Potawatomis, Miamis, Eel-Rivers, Weas, Kickapoos, Piankeshaws,

and Kaskaskias. The Greeneville Treaty, by its terms, superseded earlier treaties made with certain of these same tribes. The Six Nation Iroquois, a confederacy comprising the Seneca, Cayuga, Oneida, Onondaga, Mohawk, and Tuscarora Nations, relinquished claims to territory west of New York (including the area comprising Royce Area 11) by the treaties of October 22, 1784, 7 Stat. 15, at Fort Stanwix; January 9, 1789, 7 Stat. 33, at Fort Harmar; and November 11, 1794, 7 Stat. 44, at Canandaigua.

3. Description of Greeneville Cessions. In Article III of the Treaty of Greeneville, 7 Stat. 49-51, a general boundary line was drawn between the lands agreed to be owned by the United States and the lands agreed to be owned by the Indian signatories. This line, generally referred to as the Greeneville Treaty Line, began at the mouth of the Cuyahoga River on Lake Erie at a point where Cleveland is now located. From the mouth of the Cuyahoga the line ran south about 70 miles to Fort Lawrence, Ohio, thence west across the center part of the state to the Indiana border at Fort Recovery on a branch of the Wabash River. The line then went southwest at a slight angle to a point on the Ohio River about 25 miles west of the Ohio state line. The lands south and east of this line were ceded and relinquished to the United States. This ceded area is identified on Royce's Map of Ohio and Indiana as Area 11.

Also ceded to the United States in Article III of the Greeneville Treaty were a series of small, strategically located areas (generally

referred to as "enclaves") on the Indian side of the Greeneville Treaty Line. The enclaves so ceded were as follows:

<u>Subsection in Article III</u>	<u>Royce Area</u>	<u>Approximate Acreage</u>
(1)	12 Ohio	23,040
(2)	13 Ohio	2,560
(3)	14 Ohio	23,040
(4)	15 Ohio	23,040
(5)	16 Ind.	23,040
(6)	17 Ind.	2,560
(7)	Unnumbered; red line in west-central Indiana (Royce)	23,040
(8)	18 Ohio	92,160
(9)	19 Ohio	23,040
(10)	Ft. Sandusky; unnumbered dotted black line near Sandusky, Ohio (Royce)	23,040
(11)	20 Ohio	2,560
(12)	Detroit; unnumbered; dotted black line (Royce Michigan, from Saginaw Bay to Lake Erie)	288,000
(13)	21, 22, 23 Michigan	38,817
(14)	24 Ill.	23,040
(15)	Unnumbered; dotted black line (Royce Illinois 1)	92,160
(16)	Unnumbered; dotted black line (Royce Illinois 1)	23,040

In the last paragraph of Article III, the Indians granted the United States rights of passage along certain routes described therein which connected certain of these enclaves with the principal area ceded and with each other. These easements of passage are described as follows in the treaty:

And the said Indian tribes will allow to the people of the United States a free passage by land and by water, as one and the other shall be found convenient, through their country, along the chain of posts herein before mentioned; that is to say, from the commencement of the portage aforesaid at or near Loromie's store, thence along said portage to the St. Mary's, and down the same to Fort Wayne, and then down the Miami to Lake Erie: again from the commencement of the portage at or near Loromie's store along the portage from thence to the river Au-Glaize, and down the same to its junction with the Miami at Fort Defiance: again from the commencement of the portage aforesaid, to Sandusky river, and down the same to Sandusky bay and lake Erie, and from Sandusky to the post which shall be taken at or near the foot of the rapids of the Miami of the lake: and from thence to Detroit. Again from the mouth of Chikago, to the commencement of the portage, between that river and the Illinois, and down the Illinois river to the Mississippi, also from Fort Wayne along the portage aforesaid which leads to the Wabash, and then down the Wabash to the Ohio. And the said Indian tribes will also allow to the people of the United States the free use of the harbours and mouths of rivers along the lakes adjoining the Indian lands, for sheltering vessels and boats, and liberty to land their cargoes where necessary for their safety. [7 Stat. 50-51]

In Article IV of the treaty, 7 Stat. at 51, the United States "[1]n consideration of the peace now established and of the cessions and relinquishments of lands made in the preceding article by the said tribes of Indians . . ." relinquished its claims ". . . to all other Indian lands . . ." on the Indian side of the Greeneville Treaty Line, except the following tracts:

1st. The tract of one hundred and fifty thousand acres near the rapids of the river Ohio, which has been assigned to General Clark, for the use of himself and his warriors. 2d. The post of St. Vincennes on the river Wabash, and the lands adjacent, of which the Indian title has been extinguished. 3d. The lands at all other places in possession of the French people and other white settlers among them, of which the Indian title has been extinguished as mentioned in the 3d

article; and 4th. The post of fort Massac towards the mouth of the Ohio. To which several parcels of land so excepted, the said tribes relinquish all the title and claim which they or any of them may have.

These four excepted tracts are as follows:

<u>Subsection in Article IV</u>	<u>Royce Area</u>	<u>Approximate Acreage</u>
1st	25 Ind.	150,000
2nd	26 Ind.	1,800,000
3rd	-	-
4th	27 Ill.	-

In consideration for these cessions, the Indian signatories were immediately granted goods valued at \$20,000, together with an annuity of \$9,500 in goods, apportioned as follows: \$1,000 to each of seven tribes-- Wyandots, Delawares, Shawnees, Miamis, Ottawas, Chippewas, and Potawatomis; and \$500 to each of five tribes-- Kickapoos, Weas, Eel Rivers, Piankeshaws and Kaskaskias.

In the findings of fact which follow, we will consider Royce Area 11 first, and then the other areas relinquished by the Indians at Greeneville in 1795.

Royce Area 11

4. Early Use and Occupancy. Before 1650, the southern shores of Lake Erie were used and occupied by a group of Indians known as the Eries. The Eries were totally destroyed as an entity about 1655 by the Iroquois Confederacy, which occupied what is now New York State. Those Eries not exterminated were carried off to New York and were assimilated into the Iroquois Confederacy.

The Iroquois did not, however, then use and occupy the former Erie domain. A few years before, in 1650, the Iroquois had conquered the Huron Indians and their allies who had been occupying the Ontario Peninsula, a rich game area, north of Lakes Erie and Ontario. After the Hurons and their allied Indians were pushed westward, the peninsula became the chief hunting grounds of the Iroquois and their principal source of fur for trade with the Dutch, and later the English, at Albany. The Iroquois had no immediate need for and did not use and occupy the area along and adjoining the southern shores of Lake Erie, although they are known to have occasionally traversed the eastern portions of Royce Area 11 adjoining Pennsylvania and the Ohio River on their way to raid down the Ohio River.

Another reason the Iroquois did not use and occupy the area south of Lake Erie was because the Andastes, an enemy tribe who lived on the Susquehanna River to the southeast, frequently hunted across the general area south of Lake Erie.

By 1680, war parties of western Indians were traversing the southern shores of Lake Erie to raid the Iroquois, and the Iroquois were using these same routes to raid westward. Except for these war parties and some sporadic hunting, the northeastern portion of Royce Area 11^{1/} remained unoccupied into the early 18th century.

^{1/} That area which will in these findings of fact be hereinafter referred to as "northeastern" Royce Area 11 is the area bounded on the north by Lake Erie, on the east by the Pennsylvania state line, on the west by a north-south line following the Cuyahoga River, the Cuyahoga-Tuscarawas portage, and the Tuscarawas River as far south as Bolivar in northern Tuscarawas County, and on the south by a straight line from Bolivar to the point on the Ohio River where the States of Ohio, Pennsylvania, and West Virginia meet. The predominant topographical feature of this region is the drainage system of the Cuyahoga River.

Less is known about early occupancy of the lower portion of Royce Area 11. The Iroquois did make periodic raids down the Ohio River into southwestern Royce Area 11. During the 1660's, the Iroquois defeated a tribe known as the Mosopeleas who were apparently closely related to the Shawnees^{2/} and who then occupied an area in southwestern Royce Area 11. After defeat by the Iroquois, the Mosopeleas fled west. There is no other evidence of Indian use and occupancy of southern Royce Area 11 until the 18th century.

5. Dominance of the Iroquois. The Iroquois Confederacy had been the dominant Indian force in the Lower Great Lakes region during the 17th century. They had overwhelmed the Eries, pushed the Hurons out of the Ontario Peninsula, and periodically raided down the Ohio. However, by 1700, the might of the Iroquois was on the wane. The French-supported Indians around the lower Great Lakes were exerting pressure on the Iroquois. In 1701 at Montreal, the Iroquois made peace with the French and the French-allied Indians and pledged neutrality as between the French and English. Although remaining nominally allied with the English thereafter because of their location within the English sphere of influence, the Iroquois kept their pledge until the demise of the French interests in North America.

6. European Claims and Relations with the Indians. By 1700 the English and French were becoming aware of the value of the region south of Lake Erie. The French claimed this general area based on

^{2/} Archaeological evidence from sites around Cincinnati indicates the possible presence of Shawnee or Shawnee-related Indians at an early date.

the rights of discovery. Beginning in 1671, French explorers, probing southward from Canada, had formally annexed all newly-discovered lands. In 1682, LaSalle thus established French claim to possession of the entire Ohio Valley. Later, in 1718, a notable French map drafted by Guillaume Delisle made a claim to the Ohio Valley as part of French Louisiana.

In 1701 the French established the trading post at Detroit to expand French fur trade and to limit the potential area south of Lake Erie exploitable by the English. Cadillac, the founder of Detroit, came down from the post of Michilimackinac and invited a number of Indian tribes to establish villages at Detroit. These tribes included the Ottawa, Miami, Potawatomi, Chippewa and Wyandot (Huron). These tribes had been living to the north (Michilimackinac) and west (Chicago north to Green Bay), which areas in the latter half of the 17th century had become sanctuaries from the Iroquois. The Miamis left Detroit about 1708 after a dispute with other Indians there, and settled on the Upper Wabash and Maumee Rivers in Indiana, west of Royce Area 11.

The English used the period of earlier Iroquois conquest as the basis for the theory that, as conquerors of the tribes inhabiting the western territories, the Iroquois became the owners of the lands to the west, and western tribes became the dependents of the Iroquois. Since the Iroquois were nominally allied with the English, the English claimed them as subjects of the Crown, thereby asserting an English claim of sovereignty to these lands.

To codify these claims, the English had the Iroquois execute two deeds to the western lands, in 1701 and in 1726. These were the

so-called "beaver deeds," in which the Iroquois claimed the western lands by right of conquest, deeded to the English a vast territory, measuring approximately 800 miles east to west, and 400 miles north to south, west of the actual Iroquois lands in New York, but reserved to themselves the rights to take beaver from these lands.

7. Indian Use and Occupancy in the Early 18th Century. The Iroquois continued to do almost all of their hunting north of Lake Erie on the Ontario Peninsula in the early 18th century. The other eastern tribes who later played a major role in the resettlement of Royce Area 11 were, at this time, located considerably to the east and south of the Ohio River. There is no evidence of other than sporadic Indian use or occupancy of northeastern or southeastern ^{3/} Royce Area 11 during the early 18th century.

From Detroit and the Miami settlements in Indiana, the western Indians, in the early 18th century, began to probe into Royce Area 11 to hunt in winter and to raid south of the Ohio River. The western Indians utilized three basic routes into and through Royce Area 11. The primary route to the south from Detroit was the Sandusky-Scioto

^{3/} In these findings of fact "southeastern" Royce Area 11 is the area bounded on the east and southeast by the Ohio River, on the southwest by the Hocking River, on the west by a line south-southwest from the northeast corner of present Knox County to the town of Lancaster on the upper Hocking River in Fairfield County, and on the north by the Greenville Treaty line from the northeast corner of Knox County to Bolivar and thence east to the point on the Ohio River where the States of Ohio, Pennsylvania and West Virginia meet. The central topographical feature of this region is the Muskingum River, flowing into the Ohio River near present-day Marietta, and the tributaries of the Muskingum.

route through central Ohio. This involved canoe travel from the mouth of the Detroit River across Lake Erie to Sandusky Bay and then a short portage to the Sandusky River. This route then proceeded up the Sandusky River to the portage to the Scioto and down the Scioto River to the Ohio River and across to Kentucky. A second route was the Maumee-Au Glaize-Miami route through western Ohio. The third route was the way east to the Allegheny country and the upper Ohio. This route followed the southern shore of Lake Erie to the Cuyahoga River, then up the Cuyahoga River to the point of portage via the Tuscarawas River to the Muskingum River.

Other than occasional hunting along these routes and using them to travel south of the Ohio River, there is no evidence of Indian use and occupancy of the western portions of Royce Area 11 in the early 18th century.

8. Early Resettlement of Royce Area 11. Beginning around 1730, Indians started to settle near Royce Area 11.^{4/} By 1731, it is known that several hundred Delaware and Shawnee, and some Mingo^{5/}es were settled on the Allegheny and upper Ohio Rivers in western Pennsylvania, a few miles east of Royce Area 11.

^{4/} There is a statement by Butterfield, a 19th century Ohio historian (Historical Account (1873), at 161; Def. Ex. 119) that Delaware Indians had settled on the Muskingum River in 1724. The only support for this is the statement in 1754 of Conrad Weiser, the noted Pennsylvania trader, to the Six Nations of New York at an Albany Council (O'Callaghan, ed., Documents, Vol. VI (1855), at 872; Def. Ex. 110). Weiser includes Shawnees as alleged settlers. If Indians were there as early as 1724 it is unlikely they remained in light of the absence of any contemporary documentation.

^{5/} "Mingo" is the term usually used to describe certain Iroquois Indians, largely Senecas, who had left the villages of the main Iroquois Confederacy and formed new settlements in Pennsylvania and Ohio. By the time of the Greenville Treaty in 1795 they were usually referred to as "Senecas of Sandusky." (See, Hodge, Handbook of American Indians (1907), Part I, at 867.)

The earliest resettlement of Royce Area 11 which can be authorita-
tively established was a Shawnee village at the mouth of the Scioto
River in central ^{6/} Royce Area 11 in the late 1730's. There were two
other Indian settlements at about this same time close to Royce Area
11. The first was a Delaware village located up the Ohio across from
Royce Area 11, the occupants of which migrated into Royce Area 11 after
1740. The other settlement was located at the mouth of the Sandusky
River, north of central Royce Area 11. This latter village was
settled by Wyandots, under Chief Nicholas, who had migrated from Detroit.

9. Continued Resettlement: 1740-1750.

a. Eastern Royce Area 11. In 1742, a group of Seneca Indians,
the westernmost of the Iroquois, moved to the Cuyahoga River, which is
the western boundary of northeastern Royce Area 11. By the next year,
French reports from Detroit indicate that several other Iroquois
groups, Delawares, Abernakis and Chippewas had joined the Senecas in what
had become a large, predominantly Iroquois town on the west bank of
the Cuyahoga River. On the east bank about five miles from the river's
mouth, a group of Ottawas from Detroit had also established a village

^{6/} "Central" Royce Area 11, in these findings, is bounded on the east
by the line described in n. 3, supra, as the western boundary of south-
eastern Royce Area 11, on the south by the Ohio River, on the west by
the drainage between the Scioto River and the Great Miami and Little
Miami Rivers (which may be described as a north-south line from
northeastern Logan County on the Greeneville Treaty line to the south-
eastern corner of Brown County on the Ohio River), and on the north by
the Greeneville Treaty line from a point in northeastern Logan County
east to the northeast corner of Knox County. The predominant topograph-
ical feature of this region is the Scioto River, which flows into the
Ohio River at present-day Portsmouth, and the Scioto's tributaries.

by 1743, and they remained there until about 1750.

There were several reasons for this migration to the Cuyahoga. The French were encouraging westward movement of the eastern tribes for trade purposes. In addition, a severe famine had struck many of the Great Lakes Indians in 1741 and 1742, particularly the Senecas in western New York. The excellent hunting around the Cuyahoga and within northeastern Royce Area 11 provided the Indians with both food and furs for trade with the Europeans.

The English took this opportunity to expand their trade westward. English traders from New York and Pennsylvania quickly moved into the Cuyahoga area. The French retaliated, after the outbreak of King George's War in 1744, by attempting to force the English traders from Cuyahoga with their own troops, and by inciting the Indians against the English. By 1745, however, the English had effectively blockaded the St. Lawrence River causing a scarcity of French trade goods. As a result, the Indians sided with the English and, in 1747, united in an anti-French conspiracy, led by Nicholas, the Wyandot chief at Sandusky, which brought about the murder of several French traders fleeing from Cuyahoga to Detroit, the general harassment of the French in the lower Great Lakes region, and an abortive attack on the French post at Detroit. Nicholas then moved his Wyandots east from Sandusky to Cuyahoga and the protection of the English.

The extensive Indian settlements around Cuyahoga were short-lived. By 1750 these settlements were breaking up as the Indians moved to other locations in and out of Royce Area 11. The Wyandots did not stay long at Cuyahoga. Some in late 1748 moved farther east into Pennsylvania, while the majority, under Nicholas, moved into southeastern Royce Area 11 where they settled at the forks of the Muskingum River. The Ottawas left their village on the Cuyahoga and moved to a site at the junction of the Tuscarawas River and Big Sandy Creek near present Bolivar within Royce Area 11. The Senecas at Cuyahoga again moved eastward joining the Mingoes in western Pennsylvania. The other Iroquois Indians at Cuyahoga most probably either accompanied the Senecas or returned to New York and the main Iroquois settlements.

About 1743 a small group of Delawares formed a settlement at the head of the Muskingum River close to the mouth of the Walhonding River in southeastern Royce Area 11. East of this settlement there was, at about the same time, another on the Tuscarawas River that was probably, but cannot be conclusively established as, Delaware.

(b) Central Royce 11. The Shawnee village at the mouth of the Scioto River had, by 1750, grown to approximately 300 inhabitants who were mostly Shawnee but who are also known to have included several Mingoes. North of this village there were four known Delaware towns: Hockhocking or French Margaret's Town, on the upper Hocking River; Maguck on the upper Scioto; and Hurricane Tom's Town and Wanduchale's Town, on the middle Scioto. The occupants of the latter settlement were

that same group of Delawares who had previously been occupying a site across the Ohio River from southeastern Royce Area 11 in 1740.

c. Western Royce Area 11. In western ^{7/} Royce Area 11, a group of pro-English Miami Indians under Chief La Demoiselle left the main Miami settlement at Kekionga on the Wabash River in Indiana in 1747 or 1748, shortly after the abortive Wyandot-led, anti-French conspiracy, and moved into Royce Area 11, where they settled at the mouth of Loramie Creek near the head of the Great Miami River. This settlement was considerably more accessible to traders from the English settlements to the east and, correspondingly, farther away from the Detroit-based French. Another Miami chief, Le Baril, established a small settlement near the mouth of the Little Miami River about 1749, which was reported to have consisted of six Miami and two Mingo huts. By 1750, English traders were active among these Miami settlements.

d. Indian and White Political Relationships. During this decade the English colonies first established direct political contact with the Indians living west of the Allegheny Mountains. Earlier, it had been accepted by the colonies that New York took precedence in dealing with the Six Nations Iroquois Council at Onondaga. It had also been generally accepted, because of the small number of Indians in Ohio,

^{7/} "Western" Royce Area 11, in these findings is bounded on the east by the line described in n. 6, supra, as the western boundary of central Royce Area 11, on the south by the Ohio River, and on the north and west by the Greeneville Treaty Line. The predominant topographical feature here is the drainage system of the Great Miami and Little Miami Rivers.

coupled with the historical ascendancy of the Six Nation Iroquois among the Indians in the lower Great Lakes region, and the beaver deed cessions of the Iroquois to the English conducted by New York, that the Onondaga Council of the Six Nations held the political power to deal with the English and that the Delawares and Shawnees in western Pennsylvania, and later Ohio, were politically dependent upon the Six Nations Onondaga Council. This relationship was encouraged by both the Six Nations at Onondaga and the New York colony.

With the increased westward migration of Delawares, Shawnees and Six Nation Indians, friction arose among these Indians and the Six Nations at Onondaga, and the control and influence of the latter declined. At the same time, the other colonies particularly interested in the area west of the Ohio River--Pennsylvania and Virginia--were becoming increasingly unwilling to defer to New York in dealings involving their own interests west of the Ohio. By 1750, a series of events took place which initiated the breaking down of these old relationships to reflect the actual state of intraIndian and Indian-white relationships.

In 1747, during King William's War, the Pennsylvania Provincial Council decided to send presents to Indians at Cuyahoga and "at Ohio" (i.e. on the Ohio River and in Royce Area 11 west of the Ohio River). That same year a group of Six Nation Indians living "at Ohio" visited Philadelphia and were promised gifts. They also informed the

Pennsylvanians that they

. . . had concluded to kindle a Fire in their Town, and had invited all the Indians to a considerable distance round about them to come to their Fire in the Spring, and that they had consented to it. [Min. Pa. Prov. Council, Vol. 5, at 148; Def. Ex. 143.]

The kindling of their own council fire signified they were intended thereafter to manage their own affairs independent of the Six Nations Onondaga Council. The next year Pennsylvania held a council at Logstown with several groups of Indians living "at Ohio," including Senecas, Shawnees, Wyandots, Missisougas, Mohawks, Mohicans, Onondagas, Cayugas, Oneidas and Delawares, where presents were made directly to these Indians by Virginia and Pennsylvania. By 1750, Broken Kettle, a Seneca chief in Ohio, was speaking in the name of the "Ohio Council" and was stating that the Ohio Council had ". . . got many to join us, and are become a great Body, and desire to be taken notice of as such" (Id., at 439.)

In 1750 at the Shawnee village at the mouth of the Scioto there was a general council of Ohio Indians consisting of Shawnees, Wyandots, Delawares and Six Nation Indians. It was reported that the Indians at this council (there were apparently no whites present) agreed among themselves that all of Ohio east of the Great Miami River belonged to the Delawares, Shawnees and Six Nation Indians living in Ohio, but that the Wyandots were free to hunt there, that the lands west of the Great Miami River were the property of a confederacy comprised of Miamis, Piankeshaws, Weas, Kickapoos, and Mascoutens, and that the lands along

Lake Erie west from Niagara and north to Michilimackinac belonged to the Ottawas, Potawatomis and Wyandots.

10. Royce Area 11 from 1750 to 1764.

a. European Rivalries. In the first few years after 1750, the English with their trading centers at Cuyahoga (for the few Indians who remained there), on the Muskingum, at the Shawnee village at the mouth of the Scioto, and at the Miami settlement in western Royce Area 11, had been able to make allies of the Ohio Indians. However, with the outbreak of the French and Indian War and the early French successes, the Ohio Indians generally realigned themselves with the French except some Six Nation, Delaware and Shawnee Indians living in southeastern Royce Area 11, who, as hostilities began, moved eastward into Pennsylvania.

Even before the actual beginning of the war, the French had retaken the initiative among the Indians. In 1752, a French-led Ottawa force destroyed the Miami town in western Royce Area 11 and the English trading center there. Most of the Miamis fled west to Kekionga on the Wabash River while a few went south to the Shawnee village at the mouth of the Scioto. The last reference to Le Baril's town at the mouth of the Little Miami River is in 1755. After this date, the Miamis had no settlements within Royce Area 11, although they hunted and took an active part in the warfare there in later years.

With the start of the war, the French pressed east from Detroit along the southern shore of Lake Erie. By 1755, French-allied Indians, particularly Delawares, were raiding English settlements in Pennsylvania, and the Shawnees were attacking settlements across the Ohio River in western Virginia. Shortly thereafter the French advance collapsed and they retreated west. Montcalm's defeat at Quebec in 1759 ended the war with the English in full control as far west as Detroit, which the French surrendered in 1760. Subsequently, at the Treaty of Paris in 1763, the English succeeded to the French interests.

b. Indian Relations with the English. The English adopted a harsh policy of retribution toward the Ohio Indians at the conclusion of the war. They discontinued the practice of giving presents to the Indians, and they very sparingly supplied the Indians with firearms and ammunition which the Indians needed for hunting. The Ohio Indians strongly began to fear that the English would take their lands from them.

Indian resentment reached a peak in the spring of 1763 with the widespread revolt known as Pontiac's uprising, during which successful attacks were made on all forts from Lake Michigan to the Pennsylvania frontier, except Detroit and Fort Pitt. In August 1763, General Henry Bouquet defeated the Indians at Bushy Run and relieved Fort Pitt, while in October Pontiac's Ottawas and their allies abandoned their seige of Detroit. One year later, General Bouquet led a force of 1500 to the Muskingum River settlements, the intimidated Indians

came to terms, and thereafter, until shortly before the American Revolution, Ohio remained quiet with the English in total control. The lessons of Pontiac's uprising were not, however, lost on the English. Their harsh policies were relaxed and the British Crown in October 1763, issued a proclamation prohibiting all settlement west of the crest of the Allegheny watershed, including Royce Area 11.

c. Inter-tribal Relationships. During this period, the Ohio Indians continued to assert their growing independence of the Six Nations Onondaga Council. The fact of their pro-French involvement reflected the inability of the Six Nations of New York to control their actions. Sir William Johnson, New York's representative to the Six Nations, made several requests to the Six Nations of New York urging them to bring the rampaging Ohio Indians under control, but to no avail. Later, in 1761, Johnson, over the protests of the Six Nations of New York, journeyed to Detroit to council with several western tribes. At this council he informed the Indians that he would ". . . treat with you independent of any other Nation, or Nations of Indians whatsoever" (Sullivan, ed., Johnson Papers, Vol. 3, at 480; Def. Ex. 191.)

d. Indian Use and Occupancy. In northeastern Royce Area 11, the mixed Indian settlement at Cuyahoga had apparently ceased to exist by 1752. There is documentation to the effect that, in the years following 1752, Mingoes from Pennsylvania were hunting in the eastern portion of this region. In 1756, a group of Ottawas, Chippewas and Caughnawaga Mohawks from the Detroit-Sandusky Bay area hunted across northeastern

Royce Area 11. There are also reports of Ottawas, Chippewas and Potawatomis from Detroit hunting there around 1759 or 1760. There were several reported Delaware villages in northeastern Royce Area 11 around 1760 (on the Cuyahoga, Tuscarawas, and Mahoning Rivers) and an Ottawa village on the Cuyahoga River. All of these settlements were abandoned, however, in the early 1760's at the time of Pontiac's uprising.

The Wyandots who had settled on the Muskingum in the late 1740's left there about 1752 and returned again to the area of Sandusky Bay north of Royce Area 11. Although it is documented that subsequently Wyandots frequently hunted within Royce Area 11, particularly within the northeastern region and the central region along the headwaters of the Scioto, there is no evidence of any Wyandot settlements within Royce Area 11 from this time until shortly before 1795, when there were Wyandots settled along the upper Scioto River and the upper Mad River.

Despite the absence of settlements within Royce Area 11, the Wyandots exerted considerable influence among the other tribes who had settlements within Royce Area 11 beginning at this time. Among the Indians, particularly the Delawares, it was understood that the Wyandots had claims to the lands in northeastern Royce Area 11 and the southeastern portion along the Muskingum. Reports of these claims appear as early as 1751 and continue up to the 1780's, where in the proceedings at the Fort McIntosh Treaty, chiefs of the Delawares and

Wyandots made statements that the Wyandots had given the Delawares the lands on which they settled along the Muskingum and in northeastern Royce Area 11. The source of these claims is not known, but the Indians respected them.

Beginning about 1758, many of those Delawares who had sought English protection during the war moved back to the headwaters of the Muskingum River in southeastern Royce Area 11. By 1763 there were at least six Delaware towns in existence on the Muskingum and its tributaries. There was also one known Shawnee town in this area and three other towns of undetermined composition. A Mingo town, which was settled in 1760 and in which some Delawares also resided, was located near present-day Steubenville, at the mouth of Cross Creek on the Ohio River.

The Shawnee village at the mouth of the Scioto was in existence until 1758 when the inhabitants moved upriver to the Pickaway Plains area of central Royce Area 11, near present-day Circleville. There were two other known Shawnee towns in this area by 1763. At the close of this period, the Delawares continued to occupy their town of Hockhocking on the upper Hocking River which had been first settled much earlier.

There is no evidence to indicate any settlements in western Royce Area 11 during this period. There is documentation of Shawnees hunting on the Great Miami River in 1764, and Miamis, from their settlements on the Wabash, hunting in western Royce Area 11 during this period.

11. Same: To the American Revolution.

a. Indian Use and Occupancy. During the period from 1764 to the beginning of the American Revolution, northeastern Royce Area 11 remained a region of transient hunting by tribes from other locations. There are reports of winter hunting along the Cuyahoga and east to the Mahoning by Delawares, Chippewas, Ottawas and Mingo. It is also most probable that the Sandusky-based Wyandots continued to hunt east of the Cuyahoga.

The thick concentration of Delaware settlements continued to exist on the upper tributaries of the Muskingum River, and the Delawares may certainly be termed the predominant tribe in southeastern Royce Area 11 during this period. An indication of this Delaware predominance is the fact that in 1769 Moravian missionaries from Pennsylvania sought and received Delaware permission (after consultation with the Wyandots) to settle some of their Indian converts, who were Delawares, Munsees and Mohicans, east of the Delaware settlements on the upper Muskingum. Soon thereafter, the Moravian Indians founded a town on the east bank of the Tuscarawas River, a few miles southeast of present New Philadelphia in Tuscarawas County. Within the next few years, two additional Moravian towns were established in this area.

In central Royce Area 11, the Shawnees continued to predominate. Several Shawnee towns continued to exist in the Pickaway Plains area on the middle Scioto River. The Delawares continued their occupation of Hockhocking on the Hocking River. Two Mingo villages are recorded on the upper tributaries of the Scioto in the early 1770's. These

Mingoes apparently migrated from the Mingo town (near present-day Steubenville) on the Ohio River in southeastern Royce Area 11 around 1771. All of the village sites in this area were located in its northern region, on the middle and upper Scioto and its tributaries. The portion of this area closer to the Ohio River was an area of extensive hunting, but no village sites can be verified during this time. There are reports of Delawares and Shawnees, as well as some Ottawas and Six Nation Indians, hunting along the Ohio. Southern Indians, particularly Cherokees, also hunted on both sides of the Ohio.

In western Royce Area 11, hunting by Shawnees and Miamis continued. In addition, a group of about 170 Shawnees moved, in about 1773, from the Shawnee area of concentration on the Scioto to the upper Little Miami River and established a settlement there.

b. British-Indian Relationships. After Pontiac's uprising, the Ohio Indians remained very concerned about British intentions with respect to the lands west of the Alleghenies. In 1765, the British concluded peace treaties with certain of the Ohio Indians--Delawares, Shawnees and Six Nations Indians living "at Ohio." In these treaties, the Indians agreed to abide by any boundaries subsequently set between the English and the Six Nations of New York. Despite the peace treaties, relations between the Indians and the British colonies worsened as settlers from Pennsylvania and Virginia were moving onto lands (primarily in southwestern Pennsylvania) which the Indians claimed were theirs. The Indians threatened war and made plans for councils of all Indians

from Pennsylvania to Detroit to consider concerted action. At this point, Sir William Johnson decided that a treaty council with all interested Indians was the only way to avoid hostilities.

In October of 1768, at Fort Stanwix in New York, Johnson met with a large representation of the Six Nations of New York, and smaller groups of Mingoes, Shawnees and Delawares. The treaty negotiated at Fort Stanwix established the Ohio River below Fort Pitt as the boundary between British and Indian lands. East of Fort Pitt, the line ran across the Allegheny Mountains and north through New York, leaving intact most of the Six Nations' lands in New York. While the deed determining the boundary line was executed in the name of ". . . the Six Confederate Nations, and of the Shawanese, Delawares, Mingoes of Ohio and other Dependent Tribes . . .," only chiefs representing the Six Nations of New York signed it. (See O'Callaghan, ed., Documents, Vol. VIII, at 135-137; Def. Ex. 238.)

The Ohio Indians, however, were not satisfied with the Fort Stanwix Treaty. They felt that the Six Nations of New York had given lands to the British which belonged to the Ohio Indians and, in addition, had received all the consideration therefor. The treaty proceedings show that the Ohio Indians had good cause for their discontent. There were very few Ohio Indians present and, in such circumstances, the Six Nations of New York assumed the prerogatives they had long considered to be theirs in dealing with the British on behalf of the Ohio Indians. Johnson acquiesced in this at the treaty proceedings.

In the years following, the Delawares, Shawnees and Mingoes caused a great deal of trouble, raiding on the Pennsylvania and Virginia borders. During this time the Ohio Indians also continued the attempt to form a confederacy to fight the British. In late 1774, Lord Dunmore, who was the Governor of Virginia, set out from Fort Pitt with a large force to meet the Ohio Indians in the Scioto River area of central Royce Area 11, the area of Shawnee concentration. While the military engagements were inconclusive, the Virginians did destroy a number of Indian towns. The principal importance of Lord Dunmore's War, as it is called, was its effect upon the patterns of Indian use and occupancy of Royce Area 11. Pressure upon the Indians first initiated by the colonists during this war forced the Indians westward and northward, eventually out of Royce Area 11.

In 1775, the first rumblings of the American Revolution reached Ohio. In that year, one James Wood was dispatched by the Americans to the Ohio Indians to explain the American position. Wood visited all the major tribes settled in and around Royce Area 11 urging them to attend an American-sponsored council to be held at Pittsburgh later that year. That council, attended by Delawares, Shawnees, Ottawas, Wyandots and Mingoes, and a second council held at Pittsburgh in 1776, attended by Delawares, Shawnees and Mingoes, sought to keep the Indians neutral.

12. The American Revolution.

a. Indian Involvement. From 1776 to 1794, there was almost continuous warfare within Royce Area 11 and the surrounding areas. By late 1776, each side was seeking to align the Ohio Indians with itself. At the end of 1776, the pro-American Indians consisted of a small faction of Delawares and Shawnees located at Coshocton on the upper tributaries of the Muskingum. The Wyandots, Mingoes, Ottawas, Chippewas, and the majority of the Shawnees and Delawares had sided with the British. In the first years of the war, there were frequent Indian raids against the American frontier settlements from Virginia to Kentucky. Early in the war, the British set up a trade and supply base at Cuyahoga for their Indian allies.

On September 17, 1778, representatives of the American Government entered into a treaty with representatives of the pro-American faction of Delawares. See 7 Stat. 13. In Article II, the parties pledged to each other "perpetual peace and friendship." In response to British propaganda that the Americans were seeking Indian lands, the Americans, in Article VI, guaranteed the Delawares "*** and their heirs, all their territorial rights in the fullest and most ample manner, as it hath been bounded by former treaties, as long as they the said Delaware nation shall abide by, and hold fast the chain of friendship now entered into." The reference to "former treaties" was, as can best be determined, not to treaties, but to unsubstantiated claims made by the Delaware chief, White Eyes, to large portions of Ohio at meetings at

Pittsburgh with the Americans in 1775 and early 1778. The purpose of the treaty was to persuade these Delawares to side with the Americans. However, despite the treaty, by 1781 many of these Delawares had also joined the British.

By 1778, the Americans were on the offensive in Ohio with raiding parties and larger troop movements attacking from east and south. In February 1778, a force led by General Hand unsuccessfully attempted to reach the British post at Cuyahoga. In May 1779, Colonel John Bowman with a force of Kentuckians, crossed into Ohio near present-day Cincinnati and marched as far as a Shawnee town on the middle Great Miami River.^{8/} In 1780, General George Rogers Clark attacked western Royce Area 11, striking several Shawnee settlements near the junction of Loramie Creek and the Great Miami River. Clark returned in 1782, destroying other Shawnee villages on the Great Miami River.

In 1781, Colonel Daniel Broadhead led an expedition into the Muskingum River area of Delaware settlements, and destroyed Coshocton and nearby Lichtenau, the Moravian town which had been abandoned previously. The next year an expedition led by Colonel David Williamson attacked and killed a group of ninety Moravian Indians who had returned to their former village of Gnadhutten to harvest their crops. Soon after, Williamson's force, joined by a larger force under William Crawford, marched from southeastern Royce Area 11 via the Tuscarawas River to attack the Wyandots at Sandusky. The Wyandots, with assistance from

^{8/} The westward movement of Indian settlements within Royce Area 11 during this period is discussed infra.

Delawares, Shawnees, and British troops from Detroit, repulsed this attack.

b. Indian Use and Occupancy. During the war years the patterns of use and occupancy of Royce Area 11, which had remained fairly consistent since the 1740's, broke down completely. Northeastern Royce Area 11 alone remained relatively unchanged. Hunting continued here by Delawares, Ottawas, Chippewas, Wyandots and Mingoes. No settlements are noted but the Indians did utilize the British post at Cuyahoga. The Muskingum area in southeastern Royce Area 11 remained almost exclusively Delaware until the American raids of 1781 and 1782. At that time, the Delawares abandoned their settlements in the Muskingum area and scattered as far west as Indiana, with many joining the Wyandots at Sandusky.

Much the same occurred in the Scioto River region in central Royce Area 11. The Shawnees had begun moving west as early as 1773. By 1778 the concentration of Shawnee settlements on the Pickaway Plains had been abandoned and the Shawnees were living on the Great Miami River, where they were attacked by the Kentuckians in the early 1780's. The Delawares had abandoned their old village of Hockhocking at the beginning of the revolution. Reports indicate that a small concentration of Mingoes, under a chief named Pluggy, remained on the upper tributaries of the Scioto throughout the revolution.

As stated above, the Shawnees had, about 1780, evacuated central Royce Area 11 and moved westward. During the period between 1777

and 1786, when western Royce Area 11 was a center of Indian use and occupancy, there may have been as many as sixteen towns on the upper Great Miami River and its tributary, the Mad River. In addition to the Shawnee concentration, there are reports of Delawares and Mingoos occupying towns in this region. However, with the commencement of the American raids up the Great Miami River, Indian occupation here became precarious and, as will subsequently be seen, ceased almost completely by the late 1780's. During this period, as earlier, there is no documentation of village sites in the lower portion of western Royce Area 11 along the Ohio River. We do know, however, that this region was used for winter hunting during this period by groups of Delawares, Shawnees and Wyandots.

13. The End of the Revolution to the Greeneville Treaty.

a. State Land Claims in Ohio. Even before the end of the American Revolution, the states were debating and disputing among themselves the future of the Northwest Territory of which Royce Area 11 was a part. The difficulty centered around the fact that certain of the states claimed sovereignty, by virtue of their colonial charters, to lands west of the Ohio River. The disputes were resolved, and the Articles of Confederation adopted, after the Continental Congress passed resolutions recommending that all lands claimed by the various states northwest of the Ohio River be ceded for the common benefit of the United States and be organized into separate states. Those states

with claims--Virginia and Connecticut claimed areas within Royce Area 11--subsequently relinquished them to the United States.

Virginia relinquished its claims in 1784, attaching several conditions, all of which were accepted by Congress. These conditions were: (1) that the ceded lands should be laid out in distinct republican states having the same rights of sovereignty, freedom and independence as the other states; (2) that the French and Canadian inhabitants and other settlers of Kaskaskia, Vincennes, and the neighboring villages who had professed themselves citizens of Virginia should have their possessions and title confirmed; (3) that 150,000 acres promised by Virginia to George Rogers Clark and the officers and soldiers of his regiment should be reserved for that purpose; (4) that the lands between the Scioto and Little Miami Rivers should be reserved for Virginia troops in its continental establishment in such proportions as had been engaged to them by the State of Virginia; and (5) that the lands within the territory not reserved or appropriated for any of these purposes or disposed of in bounties to officers and soldiers of the army be considered a common fund for the use and benefit of the United States.

Connecticut relinquished part of its claim in 1786. The remainder of Connecticut's claim, which constituted what is known as the "Connecticut" or "Western Reserve", was retained by that state until 1800. The Western Reserve included more than half of northeastern Royce Area 11.

b. Indian Relations with the Americans. At the close of the revolution, the victorious United States were anxious to normalize relations with the Indians on the western frontier. However, this hope failed to materialize under the Articles of Confederation because federal officials attempted to force upon the Indians the concept that the United States had acquired title to the Indian lands by right of conquest and that the Indians, having allied themselves with the British, were accordingly dispossessed of their lands in Ohio and the remainder of the Northwest. This was the position taken at several peace treaties with various tribes held in the 1780's and, coupled with the friction created by the beginnings of the new nation's westward expansion, was a principal reason for the continued Indian warfare in Ohio up through the Battle of Fallen Timbers in 1794 and the Treaty of Greeneville which followed in 1795.

The first post-war treaty of peace was made with the Six Nations of New York at Fort Stanwix on October 24, 1784, 7 Stat. 15. The Commissioners appointed by the Continental Congress to treat with these Indians began the proceedings by telling the Six Nations of New York that their lands had been relinquished to the United States by the Six Nations' ally, the British, at the Treaty of Paris of 1783, and that the United States could rightfully claim all of the Six Nations' lands by right of conquest. The Commissioners indicated, however, that the Government was willing to let the Six Nations of New York retain some of their lands. The Six Nations of New York were given no choice, and,

in Article III of the treaty, 7 Stat. 15-16, they agreed to relinquish to the United States any claims they had to all lands lying west of Niagara and Pennsylvania. The Commissioners disregarded assertions made by chiefs of the Six Nations of New York that they were empowered to speak for the Ohio Indians.

Immediately after the Treaty of Fort Stanwix, the Commissioners went to Fort McIntosh which was located about 30 miles down the Ohio River from Pittsburgh, to treat with the Wyandots, Delawares, Chippewas and Ottawas. At Fort McIntosh, the Commissioners again informed the Indians that the Indian lands belonged to the United States by right of conquest, but that the United States, in its generosity, would grant these Indians lands to hunt and live on. On January 21, 1785, a treaty was concluded with these Indians establishing a boundary line between the Delaware and Wyandot Nations which ran south from the mouth of the Cuyahoga River on Lake Erie, then west across Ohio to the Great Miami River, and then down the St. Mary's and Maumee Rivers to Lake Erie. Article IV of the treaty provided that: "The United States allot all the lands contained within the said lines to the Wiandot and Delaware nations, to live and to hunt on, and to such of the Ottawa nation as now live thereon. . . ." 7 Stat. 16, 17.

The Commissioners reported to the President of Congress that all Indian claims east of the Great Miami, St. Mary's and Maumee Rivers had been settled, and the Congress, on May 20, 1785, passed legislation

providing for the survey of these Ohio lands.^{9/} Surveying began soon after, but was delayed and disrupted by the Indians. The first sales of these lands took place in 1787, and in that same year the Congress, on July 13, passed the Northwest Ordinance, reenacted August 7, 1789, 1 Stat. 50, establishing a government for the Northwest Territory.

The treaty with the Shawnees ordered by Congress was held at Fort Finney in western Ohio and was executed on January 31, 1786, 7 Stat. 26. This treaty followed the pattern set at Forts Stanwix and McIntosh. In Article VI, 7 Stat. at 27, the Shawnees yielded to the United States any title or pretense of title they had to the area previously relinquished by the other tribes at Forts Stanwix and McIntosh. The Shawnees were granted lands south of those granted at Fort McIntosh to the Wyandots and Delawares.

c. Indian Hostility. Following the Treaty at Fort Finney, Indian hostility in the Northwest Territory increased. Raids all along the frontier from Pennsylvania to Kentucky became common. The Indians, encouraged by British agents from Detroit and Canada, deeply resented the treaties they had been forced to execute, and they continued to regard all the territory west of the Ohio River as theirs. The British, up to 1795, did whatever they could to preserve their Indian fur trade and

^{9/} The Congress, apparently not satisfied that all claims had been settled at Forts Stanwix and Fort McIntosh, also, in early 1785, ordered separate treaties to be held with the Shawnees, and with the Miamis, Potawatomis, Piankeshaws and other western tribes.

their future interests in ownership of lands within the territory lost at the Treaty of Paris. The British, who retained their post at Detroit and a fort on the Maumee River even after the Battle of Fallen Timbers in 1794, were constantly furnishing the Indians with arms, ammunition, supplies and encouragement during this period.

In December 1786, a general council of Indian tribes was held at a Wyandot village near the mouth of the Detroit River. This council sent a speech to the Continental Congress, on behalf of the "United Indian Nations" consisting of "the Five Nations, the Hurons, Delawares, Shawanese, Ottawas, Chippewas, Poutiw-atimies, Troichtivees [Miamis], Cherokees, and the Wabash Confederates [i.e., Weas, Piankeshaws, etc.]," reiterating the Indians' contentions that the whites had no rights to their lands, and asking Congress to keep surveyors and settlers from crossing the Ohio River until another treaty was negotiated. (Speech of the United Indian Nations, December 18, 1786, and Report of the Indian Council at Detroit, December 24, 1786, in Michigan Pioneer and Historical Coll., Vol. XI at 467-72; Pl. Ex. 2, Dockets 13-G, et al.)^{10/} A

^{10/} There is no evidence to indicate whether the "Five Nations" comprised any New York Indians. At a council with British Agent McKee at Detroit, shortly after the Indian council, Captain Joseph Brandt spoke for the Indians. Captain Brandt was a New York Mohawk who had sided with the British and migrated to Ontario in 1783, but who is known to have returned periodically after that time to the United States.

congressional committee reported to the Continental Congress on August 9, 1787, that, since the United States did not want an Indian war, it would be advisable to replace the policy that lands in the Northwest Territory were held by right of conquest with a policy by which the Government would negotiate with the Indians on the basis of purchasing their lands. Consequently, in October 1787, Congress authorized Arthur St. Clair, Governor of the Northwest Territory, to hold a general treaty with the western Indians in order to remove all causes of controversy with them and to settle boundaries.

At the same time, however, the American Government was implementing the Northwest Ordinance. Settlement had begun at Marietta at the mouth of the Muskingum River within Royce Area 11, additional lands in Ohio were being surveyed, and the formation of a civil government was taking place. In light of these developments, the Indians were naturally pessimistic regarding the satisfaction of their demands. Thus, when the Indians assembled at Fort Harmar in December 1788 to negotiate with St. Clair, most of the important chiefs were not present. After two weeks of preliminary negotiations, the Peace Treaty of 1783 with Great Britain was read and explained to the Indians. The Indians then proposed the Ohio River as the Indian-American boundary line, but St. Clair replied that he could not deviate from the terms of the treaties concluded at Forts Stanwix, McIntosh and Finney. On January 9, 1789, a treaty was signed by representatives of the United States and the Sacs, Chippewas, Ottawas, Potawatomes, Delawares and

Wyandots, 7 Stat. 28, which provided that the Wyandots, Delawares, Ottawas and Chippewas confirmed the boundary negotiated at Fort McIntosh. The tribes were given \$6,000 in goods as compensation for the lands and were granted the right to hunt upon the ceded lands. A companion treaty was also signed at Fort Harmar with the Six Nations, 7 Stat. 33. This treaty was, in effect, a confirmation of the 1784 Fort Stanwix treaty with the Six Nations of New York. The Indians were granted \$3,000 worth of goods in return for the confirmation of the Fort Stanwix ^{11/} treaty.

The treaty at Fort Harmar with the western Indians served to relieve tensions among the Wyandots whose main interests were north of Royce Area 11, but it did nothing to bring peace with the Shawnees and those other Indians (Delawares, Miamis and Mingoes) who were now settled around the Wabash River in Indiana and in extreme western Royce Area 11. At the instigation of the British they continued to raid the expanding white settlements in Ohio and Kentucky and inflicted severe damage on settlers en route to Kentucky along the Ohio River. American forces were sent west in 1790 and 1791, but were decisively defeated

^{11/} The United States Constitution had gone into effect on March 4, 1789. Under the previous Articles of Confederation, there had been no provision for the ratification of treaties--they were effective when signed. Although the two Fort Harmar treaties were signed before the adoption of the Constitution, they were sent to the Senate on May 25, 1789, after its adoption, where the treaty with the western Indians was ratified but the treaty with the Six Nations was not. Both of the treaties, however, were regarded as valid. See Miami Tribe v. United States, Docket 253, 5 Ind. Cl. Comm. 180, 205-07 (1957).

by the Indians.

Efforts continued to reach a negotiated peace with the Indians. At a council at the mouth of the Detroit River in 1793, the sticking point was again the boundary line. The Indians continued to insist on the Ohio River while the United States favored the line established at the previous treaties.^{12/} The failure of these negotiations led to the expedition of General Anthony Wayne. At the Battle of Fallen Timbers in 1794, Wayne defeated a large force of Indians, consisting of Chippewas, Shawnees, Delawares, Mingoes, Potawatomis, Ottawas, Miamis, and Eel Rivers, and brought an end to Indian resistance within Royce Area 11.

d. Indian Use and Occupancy. The postrevolutionary period of warfare in Ohio brought an end to any consistent pattern of Indian use and occupancy of Royce Area 11. The Indians who had occupied Ohio had begun in the 1770's to migrate westward and northward to escape the white military expeditions which, starting with that of Lord Dunmore in 1774, had been invading Ohio in retaliation for Indian raids along the frontier. There was extensive Indian presence within Royce Area 11 during the decade preceding 1795,

^{12/} It appears that the United States would have, as a last resort, been willing to modify the line to the extent of lands not, at that time, granted to settlers. The negotiations never reached that point.

but most of this consisted of war parties and hunting expeditions. By the late 1780's, the settlements of the hostile Indians were located west and north of Royce Area 11 on the waters of the Maumee and Au Glaize Rivers, at Sandusky and in Indiana. After 1786, Royce Area 11 was almost completely devoid of Indian settlements. There are reports of two small settlements in northeastern Royce Area 11 near the Pennsylvania border, where some Senecas, along with other Indians, were living. There were Ottawas and Chippewas hunting in the Cuyahoga region of northeastern Royce Area 11 around 1790, and Delawares, Wyandots and Shawnees were hunting in the Muskingum and Scioto areas about the same time. In western Royce Area 11 there were Shawnees hunting on the Great Miami River in the early 1790's. However, during this period, Indian use and occupancy was sporadic and was not confined to specific regions within Royce Area 11.

14. The Treaties of Canandaigua and Greeneville. After the Battle of Fallen Timbers, the United States consolidated its victory by entering into peace treaties with the Indians. These treaties were the culmination of the Indian wars in the Ohio region, and fully reflected the United States policy of land acquisition by purchase from the Indians.

At the Treaty of Canandaigua with the Six Nations of New York on November 11, 1794, 7 Stat. 44, the United States made peace with these Indians and received a quitclaim to all territory within the United States not included within the New York lands of the Six Nations. The

Indians received consideration of \$10,000 in goods and an annuity of \$1,500.

In a letter of April 5, 1795, to General Wayne, Timothy Pickering, the United States Commissioner at the Treaty of Canandaigua, stated that he was convinced that the Six Nations had no valid claim to lands west of the Allegheny River, and that the quitclaim by the Six Nations at Canandaigua had given the United States only "the shadow of a title to them." (Knopf, ed., Anthony Wayne, at 397; Def. Ex. 434). The Six Nations were not included in the Greeneville Treaty negotiations which followed.

A few weeks after Wayne's victory at Fallen Timbers, Indian moves for peace began and, from the fall of 1794 until the following June, Wayne was visited at his headquarters by numerous peace delegations from the formerly hostile tribes. Plans were made to negotiate the treaty in June 1795, and at that time Indian delegations began arriving at Greeneville. Actual negotiations began on July 15, and the treaty was signed on August 3, 1795.

The treaty's preamble states that its purpose was "to put an end to a destructive war, to settle all controversies, and to restore harmony and a friendly intercourse between the said United States, and Indian tribes. . . ." In Article III, the Greeneville Treaty line is described and the enclaves and easements of passage are delineated. In Article IV,

the United States relinquished its claims north and west of the treaty line, with certain specified areas excepted. Also, in Article IV, the consideration to the Indians is described and apportioned among them.

Article V explained that the Indian signatories were entitled quietly to enjoy the land relinquished by the United States, but the United States retained the sole right of preemption to all of the lands so relinquished. The Indians also acknowledged themselves to be under the sole protection of the United States. Article VII permitted the Indians to hunt on the lands they had ceded so long as they acted peaceably. Article X provided that all treaties made between the United States and any or all of the tribes signatory to the Treaty of Greeneville, after 1783, should "cease and become void."

The preamble to the treaty lists twelve tribes as contracting parties -- "the Wyandots, Delawares, Shawanoes, Ottawas, Chipewas, Putawatimes, Miamis, Eel-river, Weea's, Kickapoos, Piankashaws, and Kaskaskias."^{13/}

^{13/} An official count taken on August 7, 1795, lists the following as having been present at Greeneville - 180 Wyandots, 381 Delawares, 143 Shawnees, 45 Ottawas, 46 Chippewas, 240 Potawatomis, 73 Miamis and Eel Rivers, 12 Weas and Piankeshaws, 10 Kickapoos and Kaskaskias.

The treaty proceedings give considerable information regarding territorial claims made by certain of the tribes and Indian reaction to the prior treaties between the United States and the various tribes. Several of the chiefs present at Greeneville, including Little Turtle, a prominent Miami chief, and Bad Bird, a Chippewa chief from Mackinac, denied any knowledge of the Fort Harmar treaty. Massas, an Ottawa chief from Lake St. Clair who spoke on behalf of the Three Fires (the Ottawas, Chippewas and Potawatomis), claimed that while these tribes were present at Fort Harmar, they had bad interpreters and never became aware of what transpired there.

The Indians also made several claims of ownership to the western lands. Little Turtle claimed that the Miamis owned an immense area from Detroit to the mouth of the Scioto, west to the Wabash and then north to Chicago. Massas, for the Three Fires, claimed that the Ottawas, Chippewas and Potawatomis owned the lands ceded to the United States at Fort Harmar. Tarke, a Wyandot chief, put forth a different view of the ownership of the lands. He stated:

No one in particular can justly claim this ground; it belongs, in common, to us all; no earthly being has an exclusive right to it, the Great Spirit above is the true and only owner of this soil and he has given us all an equal right to it.

Tarke also made an effort to resolve the Indian fears of future disputes over the tribal boundaries of the area on the Indian side of the Greeneville Treaty Line. Speaking, he said, on behalf of ". . . the

Wyandots, Ottawas, Delawares, and Six Nations of Sandusky, and the Delawares and Shawanese, from the waters of the Miami River," he requested Wayne to fix "the bounds of every nation's rights" within the Indian lands. Wayne declined to do this as a matter of ". . . impropriety, as well as impossibility." Said Wayne: "You, Indians, know best your respective boundaries." (See Lowne and Clarke, eds., Amer. State Papers, Ind. Affs., Vol. I, at 564-83; Def. Ex. 31.)

After the Treaty of Greeneville, the Indians adhered to the boundary line established there. The ceded area was quickly settled thereafter, and, on March 1, 1803, Ohio was admitted as a State of the Union.

Areas Other than Royce Area 11

15. Generally. Sixteen other areas (generally referred to as "enclaves") were relinquished to the United States in Article III of the treaty, as well as rights of passage along certain routes described in the last paragraph of Article III which connected certain of the enclaves with the principal area ceded and with each other. Furthermore, in Article IV of the treaty, the United States reserved, from its general relinquishment of claims north and west of the Greeneville Treaty Line, certain areas described therein, and the Indians relinquished their claims to these areas in the same article. Interests in these areas have been claimed by several of the plaintiffs herein.^{14/} To enumerate

^{14/} We have entered no findings relating to the lands described in the third clause of the first paragraph of Article IV of the Treaty. These lands are impossible to define. They are not at issue in these proceedings.

the claimants to each of these areas is unnecessary. Each area will be discussed separately hereinafter. Where the claim of any particular plaintiff warrants special consideration, reference will be made accordingly.

16. Royce Area 12 Ohio. This area, which adjoins the northern boundary line of western Royce Area 11 in Shelby County, Ohio, is described in the treaty as "[o]ne piece of land six miles square at or near Loromie's store." Loromie's store was a trading center established in the late 1760's by Peter Loromie, a French-Canadian Tory who, during the revolution, supplied anti-American Indians. During George Rogers Clark's expedition against the Shawnee villages on the upper Great Miami and Mad Rivers in 1782, a detachment of his forces destroyed the post, after which this area ceased to have any independent significance.

Not far to the south (within Royce Area 11) at the mouth of Loromie Creek was the site of the early Miami village of Pickawillany, which was settled in 1747 or 1748, and was inhabited by La Demoiselle's band of Miamis until 1752, when a French-led force of Ottawas destroyed it and the Miamis fled. Some years later, when the Shawnees moved west to the upper Great Miami during the early years of the American Revolution, there was a thick concentration of Shawnee settlements within Royce Area 11 south of Royce Area 12. By the late 1780's, however, the Shawnees had evacuated western Royce Area 11 and moved north and west.

This enclave is not known to have contained settlements of any tribe. During the lengthy period that Loromie's store was located there, Indians of various tribes passed in and out of this area. There is nothing in the record to differentiate Indian use and occupancy here from that of adjoining western Royce Area 11.

17. Royce Area 13 Ohio. This area is located approximately 15 miles north of Royce Area 12 and is described in the Greeneville Treaty as "[o]ne piece two miles square at the head of the navigable water or landing on the St. Mary's river, near Girty's town." It was the site of a trading post established in 1783 by James Girty, a British trader married to a Shawnee woman. There was also an Indian village at the site at the same time which may have been Shawnee, but this cannot be confirmed. Girty remained there until 1790. There are reports of Shawnees hunting in the general area of Royce Areas 12 and 13 in 1794. The proximity of this enclave to western Royce Area 11 was such that Indian use and occupancy of it may be considered together with that of the nearby portions of western Royce Area 11.

18. Royce Area 14 Ohio. This area, located in western Ohio about 20 miles north of the Greeneville Treaty Line is described in the Greeneville Treaty as "[o]ne piece six miles square at the head of the navigable water of the Au-Glaize river." The tract was the location of Fort Amanda. The entire eastern boundary of Royce Area 14 is adjacent to the western boundary of Royce Area 166, which was granted to the Shawnees by the sixth section of the Treaty of September 29, 1817, 7 Stat. 160,

and one-half of its southern boundary, is adjacent to Royce Area 165, also granted to the Shawnees by the same treaty. The area was relatively close to the Shawnee settlements in Royce Area 11 in the late 1770's and early 1780's. However, up to the time of the 1795 Greeneville Treaty, there is no evidence in the record to substantiate exclusive use and occupancy of this area by any particular tribe.

19. Royce Area 15 Ohio. This area in northwestern Ohio was described in the 1795 Treaty of Greeneville as "[o]ne piece six miles square at the confluence of the Au-Glaize and Miami rivers, where Fort Defiance now stands." The area was a popular location for winter hunting in the mid-18th century because a salt lick there attracted large numbers of buffalo. Later, from about 1774 to 1776, there are reports of an Ottawa village at this location. In 1794 there were congregated there, according to a captive of Wayne's, several hundred Delawares, Miamis and Shawnees who had been, until shortly before, settled near Fort Wayne. This mixed settlement was evacuated in the same year due to fear of imminent attack by United States forces under General Wayne. This settlement was not permanent but was, rather, a launching point for Indian attacks against the Americans. There is no evidence to support claims of exclusive use and occupancy of this area by any particular tribe.

20. Royce Area 16 Indiana. This area, located in northeastern Indiana, is described in the Greeneville Treaty as "[o]ne piece six miles square at or near the confluence of the rivers St. Mary's and St. Joseph's, where Fort Wayne now stands, or near it."

The Miamis had established a village here called "Kekionga" early in the 18th century after they had left Detroit. They remained continuously at Kekionga until about 1792. In the late 1780's, large numbers of Delawares and Shawnees, evacuating Royce Area 11, had joined the Miamis at and around Kekionga. In 1790 General Harmar's forces burned Kekionga. The site of the village was reoccupied by the Indians shortly thereafter, but was evacuated in 1792 when most of the Miamis, along with the Delawares and Shawnees in the area, moved east to the vicinity of Royce Area 15 Ohio. The rest of the Miamis evacuated westward. The abandonment of Kekionga by the Indians was the result of American pressure, which at this time was forcing the Indians of various tribes and settlements to group together for security purposes. Before the 1795 Treaty of Greeneville this area was Miami territory, although later, in the early 19th century, there were Potawatomis inhabiting the area north of the Wabash. See Miami Tribe v. United States, Docket 67, 2 Ind. Cl. Comm. 617, 625 (1954), aff'd in part, rev'd in part, 146 Ct. Cl. 421 (1959).

21. Royce Area 17 Indiana. This area is located in eastern Indiana and is described in the treaty as "[o]ne piece two miles square on the Wabash River at the end of the portage from the Miami of the lake, and about eight miles westward from Fort Wayne." The discussion in the immediately preceding finding of fact No. 20 relates equally to this area. At the 1795 Greeneville Treaty proceedings, General Wayne acknowledged Miami control over this area. This area was apparently evacuated at the same time Royce Area 16 was.

22. Ouatanon or the Old Wea Towns. This area in west-central Indiana is described in the 1795 Greeneville Treaty as "[o]ne piece six miles square at the Ouatanon or old Wea towns on the Wabash river." The French had established a fort there around 1720, near the site of a village occupied by Weas, a branch of the Miami Tribe. This village and others nearby were occupied until 1790 when they were destroyed by an American force. This area is bordered on three sides by Royce Area 99, ceded by the Miamis at the Treaty of October 6, 1818, 7 Stat. 189. This area has been previously held to be within the area of occupancy of the Weas who, at the time of the 1795 Greeneville Treaty, were a part of the Miami Tribe. See Miami Tribe, supra, at 627-28. This area was, however, relinquished by the United States in the Treaty of September 30, 1809, 7 Stat. 113, and was subsequently receded to the United States, as part of Royce Areas 98 and 99, in the Treaties of October 2, 1818, between the United States and the Weas and October 6, 1818, between the United States and the Miamis, 7 Stat. 189. The Wea Nation has been compensated for most of this area as part of Royce Area 99. See Peoria Tribe v. United States, Docket 314, 9 Ind. Cl. Comm. 274 (1961). The small portion north of the Wabash River is included within the claim of the Peoria Tribe on behalf of the Wea Nation in Docket 314-A before this Commission. See Pottawatomie Tribe v. United States, Dockets 15-D, et al., 30 Ind. Cl. Comm. 42 (1973).

23. Royce Areas 18 and 19 Ohio. These two areas, adjacent to each other, are located in northwestern Ohio on the Maumee River, near the present city of Toledo. They are described in the 1795 Greeneville Treaty as follows:

. . . (8) One piece twelve miles square at the British fort on the Miami of the lake at the foot of the rapids. (9) One piece six miles square at the mouth of the said river where it empties into the Lake.

The former area includes the site of the Battle of Fallen Timbers. The latter area is the site of Fort Industry.

In the early 18th century Weas and Miamis lived along the lower Maumee River. By 1750, Ottawas from Detroit were beginning to occupy the lower Maumee River region. It is known that in 1750 Ottawas were planning to establish a settlement at Roche de Boeuf within Royce Area 18. There were definitely recorded Ottawa settlements here beginning in 1763 which continued in existence up to the time of the Greeneville Treaty. See Dominic ex rel. Ottawa Tribe of Indians v. United States, Docket 40-B, et al., 2 Ind. Cl. Comm. 461, 466 (1953). There are also reports of Wyandots hunting here in the late 18th century.

After 1790 and up to the Battle of Fallen Timbers, Royce Area 18 became a major center for British distribution of supplies to anti-American Indians who were then occupying the area in substantial numbers. During this time, the British constructed Fort Miami on the tract, and, before Fallen Timbers, about 3,000 diverse Indians of the Delaware, Shawnee and Miami Tribes were camped here and were entirely dependent upon British aid. Ottawas continued to live on the Maumee River from 1795 until the 1830's, when they ceded their reserves adjoining Royce Areas 18 and 19 in the Treaties of August 30, 1831, 7 Stat. 359, and February 18, 1833, 7 Stat. 420.

At the time of the 1795 Greeneville Treaty, those bands and groups of Ottawas known as the Ottawas of the Maumee, Blanchard's Fork, AuGlaize

and Roche de Boeuf were using and occupying this area and had been doing so for a long time. Use and occupancy by other Indians was short lived.

24. Area About Fort Sandusky. This unsurveyed area on Lake Erie in northern Ohio is located at the northwestern corner of Royce Area 53, which latter area was ceded by the Wyandots, Ottawas, Chippewas, Munsees and Delawares, Shawnees and Potawatomis in the Treaty of July 4, 1805, 7 Stat. 87. It is described in the 1795 Greeneville Treaty as "[o]ne piece six miles square upon Sandusky Lake, where a fort once stood." This tract was later found to be within Connecticut's Western Reserve and, therefore, was never surveyed. During the period 1737 to 1748 a group of Wyandots had a village here, which also included some Mingoes and other Indians. Wyandots returned to this general region in the early 1750's and remained, more or less continuously, until after the 1795 Greeneville Treaty. There were also two bands of Ottawas settled in this area from 1784 to 1811. At the time of the 1795 Greeneville Treaty, the Wyandots had used and occupied this area for a long time. Use and occupancy by other tribes was with the permission of the Wyandots.

25. Royce Area 20 Ohio. This area in northern Ohio on the Sandusky River a few miles from its mouth is described in the Greeneville Treaty as "[o]ne piece two miles square at the lower rapids of Sandusky River." There was a Wyandot village here as early as 1760, and there is

documentation of this settlement down to 1794. This was the center of Wyandot activity from the mid-18th century until after the Treaty of Greeneville. At the time of the 1795 Greeneville Treaty, the Wyandots had used and occupied this area for a long time.

26. Detroit and Surrounding Area. This area, comprising approximately 288,000 acres, is described in the Greeneville Treaty as follows:

. . . (12) The post of Detroit and all the land to the north, the west and the south of it, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and so much more land to be annexed to the district of Detroit as shall be comprehended between the river Rosine on the south, lake St. Clair on the north, and a line, the general course whereof shall be six miles distant from the west end of Lake Erie, and the Detroit River.

The Detroit area ceded at Greeneville in 1795 is entirely surrounded (except for water) by Royce Area 66, which was ceded to the United States at the Treaty of November 17, 1807, 7 Stat. 105, at Detroit, with the Wyandot, Ottawa, Chippewa and Potawatomi Tribes, and which is the subject of claims by representatives of these tribes in Dockets 59, et al., consolidated, before this Commission.

Cadillac established the French trading post at Detroit in 1701. During the period 1710 to 1720, four tribes had settlements around the post of Detroit: Chippewa, Potawatomi, Ottawa and Huron (Wyandot). The Chippewas never established more than an occasional presence within the

area ceded at Greeneville in 1795. Chippewa activity was centered during the 18th century to the north around Saginaw Bay. The Ottawas occupied a village at Detroit until 1763 when, after the failure of Pontiac's seige of Detroit, the Ottawas moved south into the Maumee River area of Ohio. The Potawatomis had continuously occupied a village site within the ceded area from 1710 until approximately 1764. After Pontiac's uprising, however, the Potawatomis abandoned this village and moved westward, outside the ceded area but within Royce Area 66.

The Wyandots maintained a settlement almost continuously within the ceded area from about 1705 until 1742 when they moved their settlement across the Detroit River into present day Ontario. While there are references to Wyandot presence within the ceded area after 1742, these references are brief, and the main Wyandot settlement apparently remained in Ontario until 1777, when the Wyandots established two village sites at present Wyandotte and Gibraltar, Michigan, where they remained until at least 1796.

Beginning shortly after Cadillac's settlement of Detroit, whites were granted lands adjacent to the fort. Later, several tracts of land within the area ceded were sold or granted by Indians to settlers. By 1788, there were approximately 4,000 whites settled on both sides of the Detroit River. The area for several miles around the post of Detroit was farmland.

On the basis of the evidence herein, we are unable to find that the predecessors of any of the claimants herein actually and exclusively

used and occupied for a long time any of this area ceded at Greeneville in 1795. We therefore find that no tribes held aboriginal title to any of this area at the time of the 1795 Greeneville Treaty.

27. Royce Areas 21, 22 and 23 Michigan. The area identified as Royce Area 21 on Royce's Map of Michigan 1, includes Mackinac Island and the northern tip of lower Michigan at the Straits. Area 22 is the southern tip of the upper Michigan peninsula. Area 23 is the island of Bois Blanc located a few miles east of the Straits. These areas are described as follows in Article III of the Greeneville Treaty:

. . . (13) The post of Michillimackinac, and all the land on the island, on which that post stands, and the main land adjacent, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and a piece of land on the main to the north of the island, to measure six miles on lake Huron, or the strait between lakes Huron and Michigan, and to extend three miles back from the water of the lake or strait, and also the island De Bois Blanc, being an extra and voluntary gift of the Chippewa nation.

French missionaries settled Mackinac Island in 1670. From 1672 to 1706 a French fort and settlement existed on the north side of the Straits at Point St. Ignace; from 1712 to 1781 the fort and settlement (first French, then British) were located on the south side of the Straits; after 1781 they were removed to Mackinac Island. In conjunction with the removal of the fort and settlement to Mackinac Island, which occurred after American sovereignty had attached, the British commandant purchased the island for 5,000 pounds from a group of Chippewas who conveyed it ". . . in behalf of ourselves and all others of our nation,

the Chipwas, who have or can lay claim to the . . . island." See Indian Treaties and Surrenders, Vol. I, No. 1; Def. Ex. S-78. Chippewas had been reported on Mackinac Island in 1779, but both Ottawas and Chippewas frequented the trading post and agencies there after 1781. Ottawas and Chippewas from Detroit ceded Bois Blanc Island in 1786; Chippewas gave it to the United States at the 1795 Greeneville Treaty, but Ottawas claimed it in 1799. The British retained possession of Mackinac until 1796 despite their relinquishment of the entire northwest under the terms of the 1783 Treaty of Paris. The United States finally took possession in 1796 pursuant to a provision of Jay's Treaty, 8 Stat. 116. Subsequently, in 1834, both Ottawas and Chippewas acknowledged the validity of the gift of Bois Blanc Island when they requested some remuneration for it because they were then impoverished.

Royce Areas 21, 22 and 23 were completely surrounded by Area 205, Royce's Map of Michigan 1. In proceedings under Dockets 18-E and 58, consolidated, 7 Ind. Cl. Comm. 576 (1959), this Commission held that Royce Area 205 was aboriginally owned in 1836 by a single entity of Ottawa and Chippewa Indians which entity had been formed at some time after 1795 and before 1836 from autonomous bands of Ottawas and Chippewas who inhabited Royce Area 205.

On the basis of the evidence, we find that in 1795 Royce Areas 21, 22 and 23 were areas of common use and occupancy by autonomous bands of Ottawa and Chippewa Indians. Therefore, we find that no single tribe,

band, or group of Indians possessed aboriginal title to these enclaves at the time of the 1795 Greeneville Treaty by virtue of exclusive use and occupancy for a long time.

28. Royce Area 24 Illinois (Chicago). This area is described in Article III of the 1795 Greeneville Treaty as "[o]ne piece of land six miles square at the mouth of Chikago river, emptying into the south-west end of Lake Michigan, where a fort formerly stood." The Weas occupied this area early in the 18th century, and it is known that there were Sac and Fox Indians here in the 1740's. According to an 1816 memoir written by Auguste Chocteau, a trader and commissioner at various treaties, Potawatomis, together with some bands of Chippewas and Ottawas, moved to the site of Chicago in 1743 and remained there until at least 1816. See Citizen Band v. United States, Dockets 71, et al., 27 Ind. Cl. Comm. 187, at 285, n. 13 (1972). At the time of the 1795 Greeneville Treaty, the Potawatomi Tribe had actually and continuously used and occupied this area for a long time. Its use as a portage path by other Indians was permissive.

29. Mouth of the Illinois River and the "Old Piorias Fort and Village" (Illinois). These two areas, both of which are intersected by the Illinois River, are described as follows in the treaty:

- . . . (15) One piece twelve miles square at or near the mouth of the Illinois river, emptying into the Mississippi.
- (16) One piece six miles square at the old Piorias fort and village, near the south end of the Illinois lake on said Illinois river.

During the early 18th century these areas were within the very large territory inhabited and controlled by the Illinois Confederacy, a group of several tribes which included the Peorias and Kaskaskias. Beginning about 1743 the Potawatomis moved into Illinois, and over the remainder of the 18th century extended their use and occupancy of lands there. By approximately 1765 to 1770 the Illinois tribes had been driven south of the Illinois River, and the Potawatomis were using and occupying the portion of Illinois bordering on the north and west of the Illinois River. See Citizen Band v. United States, Dockets 217, et al., 11 Ind. Cl. Comm. 641, 655-58 (1962); Sac and Fox Tribe v. United States, Docket 83, 7 Ind. Cl. Comm. 675, 694-96 (1959). On the south side of the Illinois River, the Kickapoo had, beginning around 1735, established themselves in the area of central Illinois described as Royce Area 110 on Royce's Map of Illinois 2. This area adjoined the portions of these two enclaves located south and east of the Illinois River. The Illinois Indians receded before these stronger tribes to southern Illinois along the Mississippi and Ohio Rivers where they remained until after 1795. See Pottawatomie Tribe v. United States, Dockets 15-D, et al., 30 Ind. Cl. Comm. 42, 88-92 (1973).

We find that at the time of the 1795 Greeneville Treaty, the Potawatomi Tribe possessed aboriginal title to the portions of these two enclaves located north and west of the Illinois River. We further find that, with respect to those portions of these enclaves located south and east of the Illinois River, the Kickapoo Indians possessed aboriginal title in 1795. These Indians had, at the time of the 1795 Greeneville Treaty, actually and exclusively used and occupied

these respective portions of the two enclaves continuously and for a long time.

30. Rights of Passage. In the last paragraph of Article III of the treaty, the Indians granted the United States rights of free passage along certain routes on the Indian side of the Greeneville Treaty Line. The language granting these rights of passage is quoted in finding of fact No. 3, supra. The granting of these rights of passage did not constitute cessions of the lands over which these easements passed. See 27 Ind. Cl. Comm. 59, at 67, n. 1. However, while the cession of these lands took place in later treaties with the United States, the grants of passage were grants of valuable property rights by those Indians who may have possessed title to the lands over which passage was granted.

There are five separate passages described in the last paragraph of Article III of the treaty. The courses of these rights-of-way are nearly all over the waters of navigable rivers. The portions which traverse land are:

- 1) That portion of the first described passage running from Loromie's store (Royce Area 12, Ohio) to the St. Mary's River (the portage path meets the St. Mary's River within Royce Area 13, Ohio). This portion traverses the southwest corner of Royce Area 87 for approximately six miles. Royce Area 87 was ceded to the United States in the Treaty of September 29, 1817 (7 Stat. 160), by representatives of the

Wyandot, Seneca, Delaware, Shawnee, Potawatomi, Ottawa and Chippewa Tribes of Indians and is the subject of claims in Dockets 13-F, et al., consolidated, before this Commission.

2) That portion of the second described passage running from Loromie's store (Royce Area 12, Ohio) to the Auglaize River at a point within Royce Area 14. This passage includes the portage between Royce Areas 12 and 13 described above and then proceeds through Royce Area 87 for a distance of approximately nine miles to Royce Area 14.

3) That portion of the third described passage running from Loromie's store (Royce Area 12) to the Sandusky River. While difficult to trace on land, this passage most probably proceeded across south-central Royce Area 87 for a distance of approximately 60 miles.

4) That portion of the fourth described passage running from Royce Area 24, Illinois 2, to the Illinois River. This portion traverses the northeastern portion of Royce Area 78, Illinois 2, for a distance of approximately seven miles. Royce Area 78 was ceded to the United States in the Treaty of August 24, 1816, 7 Stat. 146, by the United Tribes of Ottawas, Chippewas and Potawatomis and is the subject of claims in Docket 13-K, et al., consolidated, before this Commission.

5) That portion of the fifth described passage running from Fort Wayne (Royce Area 16) to the Wabash River. This portion traverses the boundary line between Royce Areas 132 and 99, Map of Indiana (Detail) for approximately two miles. Royce Area 132 was ceded to the United States

in the Treaty of October 16, 1826, 7 Stat. 295, by the Potawatomi Tribe of Indians and is the subject of claims in Docket 15-N, et al., consolidated, before this Commission. The Commission has previously determined that, by virtue of the 1795 Greeneville Treaty together with the Treaty of October 6, 1818, 7 Stat. 189, the Miami Tribe held recognized title to the portion of Royce Area 99 adjoining this passage. See Miami Tribe v. United States, Dockets 67, et al., 2 Ind. Cl. Comm. 617, 629 (1954), aff'd in part, rev'd in part, 146 Ct. Cl. 421 (1959).

The Commission finds as follows with respect to the passages described above:

A) On the basis of our findings relating to Royce Areas 12, 13 and 14 in Ohio, we find that no tribes possessed aboriginal title to those portions of the first and second passages described in clauses 1 and 2, supra, of this finding of fact.

B) The passage described in clause 3, supra, of this finding of fact passed over the southeastern portion of Royce Area 87 which, at the time of the 1795 Greeneville Treaty, was used and occupied by several different Indian groups. The evidence presented in Dockets 13-F, et al., consolidated, before this Commission, portions of which are by the accompanying order made a part of the record of these proceedings, establishes that, although the Wyandots were predominant in this region, there had been Delawares, Munsees and Mingoos using and occupying the region for at least fifteen years before the 1795 Treaty of Greeneville. We therefore find that in 1795 no tribes possessed aboriginal title to that portion of the third passage described in clause 3, supra, of this finding of fact.

C) On the basis of our findings of fact relating to Royce Area 24 in Illinois, the passage described in clause 4, supra, of this finding passed over territory aboriginally owned in 1795 by the Potawatomi Tribe.

D) On the basis of our findings of fact relating to Royce Areas 16 and 17, Indiana, the passage described in clause 5, supra, of this finding passed over territory aboriginally owned in 1795 by the Miami Tribe.

31. Royce Area 25 Indiana (Clark's Grant). Royce Area 25, also known as Clark's Grant, is an area of 150,000 acres located in present day Clark, Scott and Floyd Counties in southern Indiana. This area is described in Article IV, subsection 1, of the treaty as:

The tract of one hundred and fifth thousand acres near the rapids of the river Ohio, which has been assigned to General Clark, for the use of himself and his warriors.

This area is adjacent to Royce Area 56 on the north, east and south and to Royce Area 49 on the southwest. The Ohio River is the southern boundary of Royce Area 25. The claimants to this area in these proceedings are the plaintiffs in Docket 27-B, the Delaware Tribe of Indians; in Docket 130, Ira Sylvester Godfroy, et al., ex rel., the Miami Indian Tribe; in Docket 252, the Miami Tribe of Oklahoma, et al.; and two of the plaintiffs in Docket 338, the Absentee Delaware Tribe of Oklahoma and the Peoria Tribe of Indians of Oklahoma on behalf of the Wea and Piankeshaw Nations.

On December 10, 1777, the Virginia House of Delegates authorized Virginia Governor Patrick Henry to send troops of the Virginia militia on an expedition to reduce the British posts in the country beyond the

Ohio River. In May 1779, the Virginia legislature passed an act which, inter alia, provided that

. . . [e]very soldier who enlisted into the corps of volunteers commanded by colonel George Rogers Clarke, and continued therein till the taking the several posts in the Illinois country, shall at the end of the war, be entitled to a grant of two hundred acres of any unappropriated lands within this commonwealth. . . [Laws of Va., Ch. VI (1779); Def. Ex. S-29, at 26.]

Subsequently in 1779, after Clark and his men had captured Vincennes from the British, Clark refused an offer by the Indians there of a gift of land made to encourage him to remain as their "Chief and Guardian." Soon after, however, Clark accepted the gift of the tract in a deed subscribed by the Piankeshaw chief Francis son of Tobacco, who made the gift ". . . in the names of all the Great Chiefs and Warriors of the Ouabash and their allies." Clark accepted the gift, not for himself, since he knew that Indian lands could not be transferred to individuals, but as the possible site for a fort. Coll. Ill. Hist. Lib., Va. Ser., Vol. III, at 151-53; Def. Ex. S-21.

As one of the conditions of the cession of its land claims northwest of the Ohio River to the States of the Confederation, Virginia, by its deed of March 1, 1784, stipulated

. . . [t]hat a quantity not exceeding one hundred and fifty thousand Acres of Land promised by this State shall be allowed and granted to the then Colonel now General George Rogers Clarke and to the Officers and Soldiers of his Regiment who marched with him when the posts of Kaskaskies and St. Vincents were reduced and to the Officers and Soldiers that have been since incorporated into the said Regiment to be laid off in one Tract the length of which not to exceed double the breadth in such place on the North-West Side of the Ohio as a majority of the Officers shall choose and to be afterwards divided among the said Officers and Soldiers in due proportion according to the Laws of Virginia. [Terr. Papers of the U.S., Vol. II, at 8; Def. Ex. S-20.]

Prior to the relinquishment of Virginia's claims, the Virginia legislature had authorized the surveying and apportionment of these lands and the establishment of a town therein, and the Virginia legislature continued periodically up until 1796 to enact laws regarding Clark's Grant, despite the fact that Virginia had ceded its claims to lands northwest of the Ohio River in 1784.

We find, for the reasons set forth in our opinion, that the United States acquired title to Clark's Grant in 1784 when Virginia ceded its claims to the United States, and that the United States held the right of preemption with respect to Clark's Grant until 1795 when the Indians at Greeneville ceded their rights to Clark's Grant to the United States. We are, however, unable to find aboriginal title in any of the claimants herein. There is no evidence in the record to establish actual and exclusive use and occupancy over a long period of time by the aboriginal predecessors of any of these claimants sufficient to establish proof of aboriginal title to Clark's Grant or any portion thereof.

32. Royce Area 26 (Vincennes Tract). This area is described in Article IV, subsection 2, of the 1795 Greeneville Treaty as "[t]he post of St. Vincennes on the river Wabash and the lands adjacent of which the Indian title has been extinguished." The boundaries of the Vincennes Tract were formally determined for the first time in the Treaty of June 7, 1803, 7 Stat. 74, between the United States and representatives of the Delaware, Shawnee, Potawatomi, Miami, Eel River, Wea, Kickapoo, Piankeshaw

and Kaskaskia Indians, in the following terms:

ARTICLE 1st. Whereas it is declared by the fourth article of the treaty of Greeneville, that the United States reserve for their use the post of St. Vincennes and all the lands adjacent to, which the Indian titles had been extinguished. And whereas, it has been found difficult to determine the precise limits of the said tract as held by the French and British governments: it is hereby agreed, that the boundaries of the said tract shall be as follows: Beginning at Point Coupee on the Wabash, and running thence by a line parallel to the general course of the Wabash, until it shall be intersected by a line at right angles to the same, passing through the mouth of White river, thence by the last mentioned line across the Wabash and towards the Ohio, seventy-two miles, thence by a line north twelve degrees west, until it shall be intersected by a line at right angles to the same, passing through Point Coupee, and by the last mentioned line to the place of beginning.

Most of this tract lies within the present-day boundaries of the State of Indiana, and a portion lies within Illinois. The tract is bounded on the south and east by Royce Area 49, on the northeast by Royce Area 56, on the west by Royce Area 63, and on the north by Royce Area 71.

Those plaintiffs claiming aboriginal title within Royce Area 26 in these proceedings are the Miami plaintiffs in Dockets 130 and 252, the Delaware plaintiffs in Dockets 27-B and 338, the Kickapoo plaintiffs in Docket 338, the Peoria plaintiffs on behalf of the Piankeshaw Nation in Docket 338, and the Hannahville (Potawatomi) plaintiffs in Docket 29-C.

The Commission has heretofore determined that the Piankeshaw and Delaware held recognized title to Royce Area 49 to the south of Vincennes Tract (19 Ind. Cl. Comm. 107, 124); that the Piankeshaw held recognized title to Royce Area 63 to the west (16 Ind. Cl. Comm. 574, 592); and that the Miami, Eel River and Wea held recognized title to Royce Areas 56 and 71 to the east and north (5 Ind. Cl. Comm. 180, 197). The Commission has also previously determined that the Potawatomi and Kickapoo had no interest in Indiana land south and east of the Wabash River (2 Ind. Cl. Comm. 617, 631-33) and that the northern boundary of Royce Area 63, which was an extension of the northern boundary of the Vincennes Tract, correctly delineated the boundary between the Piankeshaw and the Kickapoo claims (16 Ind. Cl. Comm. 574, 590).

At the 1795 Treaty of Greeneville, the Indian signatories acknowledged that their claims to certain lands around Vincennes had been extinguished prior thereto. Eight years later at the 1803 Fort Wayne Treaty, the Indians again acknowledged this fact and agreed that the boundaries of the area, their claims to which had been extinguished before Greeneville, would be as described in that treaty. The evidence herein indicates that the Indians at Greeneville in 1795 did not contest the prior extinguishment of their claims to the area around Vincennes. Furthermore, although the evidence indicates that in the proceedings leading up to the 1803 Fort Wayne Treaty the Indians did at first protest

the extent of the prior extinguishment (which protest Governor Harrison after investigation agreed with), the Indians did ultimately agree that the area described in the first article of the Fort Wayne Treaty was the area which would be considered equivalent to that area described in the 1795 Greeneville Treaty. In the 1803 Treaty of Fort Wayne, the Indians received no additional consideration in connection with the determination of the boundaries of the Vincennes Tract other than a reaffirmance of the relinquishment by the United States, at Greeneville in 1795, of claims to surrounding areas.

We find, therefore, that the area described in the 1803 Fort Wayne Treaty constituted the boundaries of the area reserved by the United States as the "post of St. Vincennes . . . and the land adjacent, of which Indian title has been extinguished" in Article IV of the 1795 Greeneville Treaty. We find further that the Indians at the 1795 Greeneville and 1803 Fort Wayne Treaties acknowledged that any claims they may have had to this area were extinguished prior to 1795. Finally, we find that no tribes possessed aboriginal title to the Vincennes Tract at the time of the 1795 Greeneville Treaty.

33. Royce Area 27 (Ft. Massac, Illinois). This area was described in Article IV, subsection 4, of the 1795 Greeneville Treaty as "[t]he post of Fort Massac towards the mouth of the Ohio." This area is located on the Ohio River in present day Massac County, Illinois, a few miles downriver and opposite from Paducah, Kentucky. Its acreage is undetermined but is quite small. Fort Massac was established by the French

between 1708 and 1711 and was occupied by them until 1765 when the fort was surrendered to the British. The British abandoned it during the American Revolution, and George Rogers Clark briefly occupied the site in 1778 during his raid into Illinois.

Royce Area 27 is completely surrounded (except for the Ohio River) by Royce Area 48, Map of Illinois 1, which was ceded to the United States in the Treaty of August 13, 1803, 7 Stat. 78, by the Kaskaskia Tribe, representing itself and the Mitchigamia, Cahokia and Tamoroi Tribes. The Kaskaskia Tribe subsequently became a part of the Peoria Tribe of Indians of Oklahoma, plaintiffs in Docket 338, who are the only claimants to this area. The recognized title claim of the Peoria Tribe on behalf of the Kaskaskias to Royce Area 48 has recently been decided by the Commission. See Pottawatomie Tribe v. United States, Dockets 15-D, et al., 30 Ind. Cl. Comm. 42 (1973).

Evidence of use and occupancy of Royce Area 48 has been submitted in said Docket 313 in proceedings before the Commission. That evidence which has been admitted into evidence herein by the Commission's accompanying order, together with the evidence herein filed by the Peoria plaintiffs, establishes actual and exclusive use and occupancy by the Kaskaskias of the portion of Royce Area 48 adjoining Fort Massac during the entire 18th century. Despite the steadily declining numbers of Kaskaskias during this period, there is documentation of Kaskaskia presence within southern Royce Area 48 until after 1795, and Kaskaskia rights to this area were not contested by other Indians. We find,

therefore, that as of the time of the 1795 Greenville Treaty, the Kaskaskia Tribe possessed aboriginal title to Royce Area 27. In addition, in our finding of fact No. 14, supra, we have found that the Kaskaskia Tribe was present and signed the Greenville Treaty.

34. Indian Locations in the 18th Century.

a. Potawatomis. The Potawatomis are generally believed to have been living in the lower peninsula of Michigan in the 17th century. They moved slowly south from the Green Bay area of Michigan and Wisconsin. By 1700, they established themselves on the Milwaukee River, at Chicago, and on the St. Joseph River in southern Michigan and northern Indiana, and extended their settlements east over southern Michigan as far as Lake Erie. They conquered the Illinois Indians about 1740 and took possession of much of northern Illinois. They also moved south down the Wabash River, their settlements intermingling with the Miamis in that area. See Citizen Band v. United States, Dockets 71, et al., 27 Ind. Cl. Comm. 187, 253 (1972). The Potawatomis did not use and occupy Royce Area 11 during the 18th century.

b. Ottawas. During the 18th century, the Ottawa Indians were scattered in independent bands or groups over an immense territory in the area of the Great Lakes, particularly in Michigan. There were Ottawas at L'Arbre Croche and in other parts of the northwestern section of the lower peninsula of Michigan, on the Grand River in western Michigan, on the St. Joseph River in southwestern Michigan, at Mackinac and at Detroit. Beginning about 1763, Ottawas from Michigan settled on the

Maumee River in northwestern Ohio. See Red Lake Band v. United States, Dockets 18-E, et al., 7 Ind. Cl. Comm. 576, 577-8 (1959); Ottawa Tribe v. United States, Dockets 40-B, et al., 2 Ind. Cl. Comm. 461, 463-4 (1953). Bands of Ottawas hunted periodically within northeastern Royce Area 11 during the 18th century and had settlements there for short intervals around mid-century.

c. Chippewas. The Saginaw Band of Chippewas lived in the northeastern portion of the lower peninsula of Michigan during the 18th century. Chippewas were also present at Mackinac and on Michigan's northern peninsula. See Red Lake Band v. United States, supra, at 577-8; Ottawa Tribe v. United States, supra, at 463-4. Groups of Chippewas also hunted periodically within the northeastern portion of Royce Area 11 during the latter half of the 18th century.

d. Miamis. During the 18th century the Miamis were located in Indiana with their principal settlements at or near Fort Wayne. In the late 1740's small groups of Miamis established short-lived settlements in western Royce Area 11. After 1755 there are few references to Miami presence in Royce Area 11. There is documentation of occasional Miami hunting in western Royce Area 11 later in the 18th century but other Indians were also present there during the same period. The Weas, who were a part of the Miami Tribe during the 18th century, lived in Indiana to the west of the Miamis at that time.

e. Wyandots. In the early 18th century, the Wyandots lived near Detroit. Around 1740, they left Detroit. Most went across the Detroit River to present-day Ontario where they remained until 1777 when they

returned to form two settlements near Detroit. Others went to the Sandusky River region in northern Ohio about 1740. There were Wyandots settled in southeastern Royce Area 11 on the Muskingum River for a short time around 1750 but, in 1752, they returned to the Sandusky River. Wyandots hunted periodically for the remainder of the century east of the Cuyahoga River in northeastern Royce Area 11 and in central Royce Area 11 along the headwaters of the Scioto River. The areas within Royce Area 11 where the Wyandots hunted were used and occupied by other Indians at the same time.

f. Delawares. At the beginning of the 18th century, the Delawares were in Pennsylvania. They began migrating west into Ohio in the 1740's. Delawares, at that time settled on the upper Muskingum River and its tributaries in southeastern Royce Area 11 and remained there until the early 1780's when they were driven north and west out of Royce Area 11 by American forces. For a short time around 1760 there were also Delaware settlements in northeastern Royce Area 11 but these were abandoned about 1763. The record does not support a finding that the Delawares hunted exclusively in the territory to the south and east of their settlements towards the Ohio River.

g. Shawnees. In the early 18th century, the Shawnees were located east and south of the Ohio River. In the late 1730's they formed a settlement at the point in central Royce Area 11 where the Scioto River empties into the Ohio River. In 1758 they abandoned the lower Scioto region and moved upriver to the Pickaway Plains area near present-day Circleville. This area was the center of Shawnee activities

until the late 1770's when they were driven west by American forces. During the period several Shawnee towns existed along middle Scioto River. In 1778 the Shawnees were forced west to the Great Miami River where they lived until forced out of Royce Area 11 altogether by the Americans in the late 1780's. During the 1760's and 1770's they hunted, as did other Indians, along the Ohio River in southern Royce Area 11.

h. Mingoes. The first Iroquois to settle permanently in Ohio were those Senecas, and other Iroquois, who moved to the Cuyahoga River about 1742. After that, Mingoes lived at various places throughout Ohio over the remainder of the 18th century, often in small groups in the villages of other tribes. Mingoes had a town on the Ohio River near present-day Steubenville until about 1770 when the occupants moved west to the upper tributaries of the Scioto, where they remained throughout the American revolution. Mingoes hunted along the Ohio River throughout the latter half of the 18th century and are also known to have hunted in eastern Royce Area 11 during the same period. At the end of the 18th century the Mingoes were congregated in northern Ohio where they became known as the Senecas of Sandusky.

i. Kaskaskias. The Kaskaskias, during the 18th century, were a part of the Illinois Confederacy, a group of several tribes. They were driven into southern Illinois during the mid-18th century by the Potawatomis and Kickapoos. During the latter half of the 18th century they lived in southern Illinois along the Ohio River.

j. Kickapoos. Kickapoo Indians lived in the portion of central Illinois south of the Illinois River during most of the 18th century.

CONCLUSIONS OF LAW

1. Each and all of the plaintiffs in the claims under the dockets involved in these consolidated proceedings are entitled to maintain their respective claims under the Indian Claims Commission Act, 60 Stat. 1049.

2. The claims of James Strong, et al., as the representatives and on behalf of all members by blood of the Chippewa Tribe of Indians, in Docket 13-G; the Red Lake Band, et al., in Docket 18-M; and Robert Dominic, et al., on behalf of the Ottawa Tribe of Indians, in Docket 40-F, are not supported by the evidence herein and, accordingly, should be dismissed.

3. The claim of the Six Nations, et al., in Docket 89, to lands within Royce Area 11 is not supported by the evidence. All other claims in Docket 89 have previously been found to be without merit. See 30 Ind. Cl. Comm. 8, 26 (1973), and 30 Ind. Cl. Comm. 337, 357 (1973). Therefore, Docket 89 should be dismissed.

4. As of 1795, the Delaware Tribe, represented in these proceedings by the Delaware Tribe of Indians in Docket 27-B, and the Absentee Delaware Tribe of Oklahoma, et al., in Docket 338, possessed aboriginal title to that portion of Royce Area 11 included within the present-day counties of Tuscarawas, Coshockton and Muskingum, in southeastern Ohio.

5. As of 1795, the Shawnee Tribe, represented in these proceedings by the Shawnee Tribe of Indians of Oklahoma, et al., in Docket 64, and the Eastern Shawnee Tribe of Oklahoma, et al., in Dockets 335 and 338, possessed aboriginal title to that portion of Royce Area 11 circumscribed by a line beginning at the town of Highland in northern Highland County, Ohio, thence easterly in a straight line to the city of Athens, in Athens County, Ohio, thence in a northwesterly direction up the Hocking River to the town of Lancaster, thence northeasterly in a straight line to a point on the South Fork of the Licking River, 4-1/2 miles southwest of the city of Newark in Licking County, Ohio, thence west on the 40th degree north latitude to a point one mile east of the town of Catawba in northeastern Clark County, Ohio, thence in a straight line south to the place of beginning.

6. As of 1795, the Miami Tribe possessed aboriginal title to Royce Areas 16 and 17 in Indiana and to that portion of the fifth described passage in the last paragraph of Article III of the 1795 Treaty of Greenville running from Royce Area 16 west to the Wabash River over a distance of approximately two miles. The Miami Tribe is represented in these proceedings by Ira Sylvester Godfroy, et al., ex rel., the Miami Indian Tribe, plaintiffs in Docket 130 and the Miami Tribe of Oklahoma, et al., plaintiff in Docket 252. The Weas, who were part of the Miami Tribe in 1795, are represented here by the Peoria Tribe of Indians of Oklahoma, et al., plaintiffs in Docket 338.

7. As of 1795, those bands or groups of Ottawa Indians known as the Ottawas of the Maumee, Blanchard's Fork, AuGlaize and Roche

de Boeuf, represented in these proceedings by the Ottawa Tribe of Oklahoma, et al., plaintiffs in Docket 338, possessed aboriginal title to Royce Areas 18 and 19 in Ohio.

8. As of 1795, the Wyandot Tribe, represented in these proceedings by Lawrence Zane, et al., ex rel., Wyandot Tribe, et al., plaintiffs in Docket 120, possessed aboriginal title to the unsurveyed area near Sandusky, Ohio, delineated by a dotted black line on Royce's Map of Ohio (Fort Sandusky) and to Royce Area 20 in Ohio.

9. As of 1795, the Potawatomi Tribe, represented in these proceedings by the Pottawatomie Tribe of Indians, the Prairie Band of the Pottawatomie Tribe of Indians, et al., plaintiffs in Docket 15-E, the Hannahville Indian Community, et al., plaintiffs in Docket 29-C, and the Citizen Band of Potawatomi Indians of Oklahoma, et al., plaintiffs in Docket 338, possessed aboriginal title to Royce Area 24 (Chicago) in Illinois, to those portions of the areas described in the fifteenth and sixteenth clauses of the second paragraph of Article III of the 1795 Treaty of Greeneville (the mouth of the Illinois River and the "old Piorias fort and village") located north and west of the Illinois River, and to that portion of the fourth described passage in the last paragraph of Article III of the 1795 Treaty of Greeneville running, for a distance of approximately seven miles, from Royce Area 24 to the Illinois River.

10. As of 1795, the Kickapoo Tribe, represented in these proceedings by the Kickapoo Tribe of Oklahoma, the Kickapoo Tribe of Kansas, et al., plaintiffs in Docket 338, possessed aboriginal title to those portions of the areas described in the fifteenth and sixteenth clauses of the second paragraph of Article III of the 1795 Treaty of Greeneville (the mouth of the Illinois River and the "old Piorias fort and village") located south and east of the Illinois River.

11. As of 1795, the Kaskaskia Tribe, represented in these proceedings by the Peoria Tribe of Indians of Oklahoma, et al., plaintiffs in Docket 338, possessed aboriginal title to Royce Area 27 (Fort Massac) in Illinois.

12. None of the predecessors of any of the plaintiffs in these consolidated proceedings aboriginally owned in 1795 any other portions of the territory ceded to the United States by the tribes signatory to the 1795 Treaty of Greeneville, nor did any of such predecessors possess recognized title to any of said territory as of 1795.

Margaret H. Pierce
Margaret H. Pierce, Commissioner

Brantley Blue
Brantley Blue, Commissioner

Jerome K. Kuykendall
Jerome K. Kuykendall, Chairman

John T. Vance
John T. Vance, Commissioner

Richard W. Yarborough
Richard W. Yarborough, Commissioner