

BEFORE THE INDIAN CLAIMS COMMISSION

THE QUAPAW TRIBE OF INDIANS )  
 AND PAUL GOODEAGLE, LOUIS A. )  
 IMBEAU AND SAM DOUTHIT, as )  
 the representatives as far as )  
 permitted by law of all members )  
 of said tribe and all persons )  
 who shall be found entitled to )  
 participate in any judgment )  
 which may be rendered herein, )  
 same being members of a class )  
 too numerous to be joined herein, )  
  
 Plaintiffs, )  
  
 vs. )  
  
 THE UNITED STATES OF AMERICA, )  
  
 Defendant. )

Docket No. 14

MAR 15 1951

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The Quapaw Tribe of Indians was first discovered by the white man in the year 1541 when DeSoto's expedition reached the Mississippi River. At that time the Quapaw inhabited a territory along the west bank of the Mississippi river, extending from the vicinity of the St. Francis River to the Arkansas River. At this time a number of Quapaw Indians resided on the east side of the Mississippi river, and about the year 1700, moved across that river and joined the other members of the tribe, so after the year 1700 the entire Quapaw Tribe was settled in the area west of the Mississippi River.

The tribe's principal village was at the confluence of the St. Francis and Mississippi rivers, until they began moving southward, and about the year 1805 located along the south bank of the Arkansas River in several villages extending from the junction of the Arkansas and the Mississippi rivers, a distance of about 100 miles, to the vicinity of what is now known as Little Rock, Arkansas, and remained in that locality—but between Arkansas Post and Little Rock—to the time of making the treaty of August 24, 1818.

In 1541 the tribe was estimated to have a population of from five to six thousand persons. In 1750, Father Vivier referred to the tribe as having about 400 warriors. In 1820, they had been reduced to between three and four hundred souls; in 1825 there were 158 men, 123 women, and 174 children. (Plain. Ex. 49, p. 98); and in 1829, the estimated number was 500. Major S. H. Long of the Army Topographical Engineers estimated the number of warriors to be no more than 60 or 70. At the time of the conclusion of the 1818 treaty, the entire membership of the tribe—men, women, and children—was less than 500.

2. In the year 1818, the defendant decided to acquire, through negotiation, the lands claimed by the Quapaw west of the Mississippi River in order to provide lands for such other Indians living east of the river, who might choose to emigrate to the west. Accordingly, the Secretary of War had two persons commissioned to treat with the Quapaw for all their claimed lands with the exception of such part thereof as might be reserved for their use. Pursuant to the instructions

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of the Secretary of War, the Treaty Commissioners concluded a treaty with the Quapaw Indians on August 24, 1818, 7 Stat. 176, by which the Quapaw ceded and relinquished to the United States all their lands east of the Mississippi River and those west of that river, except a reservation. That the lands so ceded, relinquished and reserved are described in Article 2 of said treaty, which reads as follows:

The undersigned chiefs and warriors, for themselves and their said tribe or nation, do hereby, for, and in consideration of, the promises and stipulations hereinafter named, cede and relinquish to the United States, forever, all the lands within the following boundaries, viz: Beginning at the mouth of the Arkansaw river; thence extending up the Arkansaw, to the Canadian fork, and up the Canadian fork to its source; thence south, to Big Red river, and down the middle of that river, to the Big Raft; thence, a direct line, so as to strike the Mississippi river, thirty leagues in a straight line, below the mouth of the Arkansaw; together with all their claims to land east of the Mississippi, and north of the Arkansaw river, included within the coloured lines 1, 2, and 3, on the above map, with the exception and reservation following, that is to say: the tract of country bounded as follows: Beginning at a point on the Arkansaw river, opposite the present post of Arkansaw, and running thence, a due southwest course, to the Washita river; thence, up that river, to the Saline fork; and up the Saline fork to a point, from whence a due north course would strike the Arkansaw river at the Little Rock; and thence, down the right bank of the Arkansaw, to the place of beginning; which said tract of land, last above designated and reserved, shall be surveyed and marked off, at the expense of the United States, as soon as the same can be done with convenience, and shall not be sold or disposed of, by the said Quapaw tribe or nation, to any individual whatever, nor to any state or nation, without the approbation of the United States first had and obtained.

The plaintiffs in their petition make no claim for land described in the treaty, which lie west of the 100th degree of west longitude, so the area ceded which lies east of said 100th meridian (exclusive of

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the reserve land) comprised 43,520,888.24 acres, and the land lying within the boundaries of the reserved area comprised 1,163,604.75 acres.

3. At the time of the 1818 treaty, the Quapaw were occupying and in possession of an undefined territory within the boundaries of the lands reserved for their use by Article 2 of said treaty, and they did not at said time actually occupy and exclusively possess any part of the said 43,520,888.24 acres of the land lying east of said 100th meridian, ceded by said treaty of 1818.

4. The defendant, at the time of the negotiations with the Indians for the cession of the land lying between the Arkansas, Canadian and Red rivers, and at the time of concluding the treaty of August 24, 1818, intended to and did recognize the fact that the Quapaw were in the actual occupancy and exclusive possession of the area reserved for them in that treaty. However, the boundaries of the reservation were inaccurately described in the treaty and were later determined to be as follows:

Beginning at a point on the Arkansaw river opposite the Arkansaw post, and running thence a due southwest course to the Saline river, thence up that river to a point from whence a due north course would strike the Arkansaw river at the Little Rock, thence down the right bank of the Arkansaw river to the place of beginning.

5. About a year after the proclamation of the treaty of 1818, the Chief Executive of the Territory of Arkansas and the Territorial Legislature began pressing the United States to acquire the Quapaw reserved lands, and on June 26, 1824, the Secretary of War transmitted

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to one Robert Crittenden a commission from the President, appointing him to negotiate a treaty with the Quapaw for the extinguishment of their rights to the reserved lands.

6. On November 15, 1824, 7 Stat. 232, a treaty was concluded between the defendant and the Quapaw by which the latter ceded to the United States all their lands reserved by Article 1 of the treaty of 1818; that a correct description of the lands intended to be so ceded is that set forth in Finding No. 4 hereof.

By Article 6 of the Treaty of 1824, 1280 acres of land were reserved for one James Scull in payment of a debt due him from the Quapaw, and by Article 7 thereof the United States was required to grant to eleven Indians a total of 1040 acres of the ceded land, so the United States received free of Indian title 1,161,284.75 acres of the reserved area.

7. As consideration for the cession of land by the 1824 treaty, the Indians were paid the sum of \$28,037, which included \$4,000 in goods paid at the time of the cession, certain of the annuities provided for in the treaty, and \$500 each paid four head chiefs of the Quapaw, as required by the treaty, for losses sustained by them in removing from their farms and improvements.

8. At the time of the cession of the reserved area by the treaty of November 15, 1824, the land therein was worth \$987,092.00. That the consideration the Quapaw received for said land set forth in Finding No. 7 hereof was so grossly inadequate as to constitute an unconscionable consideration.