

## BEFORE THE INDIAN CLAIMS COMMISSION

OTOE AND MISSOURIA TRIBE  
OF INDIANS,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Docket No. 11

Decided: March 31, 1953

Appearances:

Luther Bohanon, with whom were  
Bat Shumatona and Bert Barefoot, Jr.,  
Attorneys for Plaintiff.

Ralph A. Barney, John F. Curran,  
and Cornelius J. McCool, with whom  
was Mr. Assistant Attorney General  
Wm. Amory Underhill,  
Attorneys for Defendant.

FINDINGS OF FACT

The Commission makes the following Findings of Fact:

1. The Otoe and Missouria Tribe of Indians is a duly recognized tribe of Indians residing within the territorial limits of the United States, and as such is authorized to maintain this action under Section 2 of the Indian Claims Commission Act (25 U.S.C. 70a).
2. Early in the eighteenth century the plaintiff tribe was located in what is now the southeastern part of Nebraska between the Platte River on the north and the Great Nemaha River on the south.

The villages which were occupied by the tribe at various times were all located on the south side of the Platte about 30 to 40 miles above its confluence with the Missouri. The tribe was usually found in only one village when visited by explorers and traders, but this village was not at all times in the same place, being occasionally moved from one location to another in the same vicinity. The tribe continued to occupy its villages in this area and to hunt over the area between the Platte and Great Nemaha Rivers and as far west as the line between Townships 5 and 6 east of the Principal Meridian, and was so occupying and using said area in Indian fashion at the time the United States purchased Louisiana from France in 1803, and at the time of the Treaty of Prairie du Chien on July 15, 1830.

3. The plaintiff tribe also claimed an undefined area east of the Missouri River over which it sometimes roamed and hunted.

A treaty between the United States, the Sioux and Chippewa, Sac and Fox, Menominee, Ioway, Sioux, Winnebago, and a portion of the Ottawa, Chippewa, and Potawattomie Tribes, was concluded at Prairie du Chien on August 19, 1825 (7 Stat. 272), for the purpose of promoting peace among said tribes and establishing the boundaries between them and the other tribes living in their vicinity.

Article 4 of said treaty reads as follows:

The Ottoes not being represented at this Council, and the Commissioners for the United States being anxious that justice should be done to all parties, and having reason to believe that the Ottoes have a just claim to a portion of the country upon the Missouri, east and south of the boundary line dividing the Sacs and Foxes and the Ioways, from the Sioux, it is agreed between the parties interested therein, and the United States, that the claim of the Ottoes shall not be affected by any thing herein contained; but the same shall remain as valid as if this treaty had not been formed.

Article 11 of said treaty provided that a council should be held the following year, 1826, "with the Ottoes, to settle and adjust their title to any of the country claimed by the Sacs, Foxes, and Ioways," but no such council was held, no definite boundary was ever agreed upon, and no definite area lying east of the Missouri River is shown to have been occupied by or recognized as the exclusive property or territory of the plaintiff herein.

4. Differences having arisen among some of the tribes who had been parties to the treaty of 1825 and who resided between the Mississippi and Missouri Rivers in what is now southern Minnesota, Iowa, and northern Missouri, a council of these tribes was assembled at Prairie du Chien, in the month of July, 1830, the purposes of which were to compose the differences and establish peace between said tribes, and to provide other sources for supplying their wants besides those of hunting. This council resulted in the negotiation of a treaty which was concluded on July 15, 1830 (7 Stat. 328), between the United States and the Sacs and Foxes, the Medawah-Kanton, Wahpacoota, Wahpeton and Sisseton Bands or Tribes of Sioux, the Omahas, Ioways, and the Otoe and Missouriia.

Article 1 of said treaty reads as follows:

Article 1. The said Tribes cede and relinquish to the United States forever all their right and title to the lands lying within the following boundaries, to wit: Beginning at the upper fork of the Des Moines River, and passing the sources of the Little Sioux, and Floyd's Rivers, to the fork of the first creek which falls into the Big Sioux or Calumet on the east side; thence, down said creek, and Calumet River to the Missouri River; thence down said Missouri River to the Missouri State line, above the Kansas; thence along said line to the north west corner of the said State, thence to the high lands between the waters falling into the Missouri and Des Moines, passing to said high lands along the dividing ridge between the forks of the Grand River; thence along said high

lands or ridge separating the waters of the Missouri from those of the Demoine, to a point opposite the source of Boyer River, and thence in a direct line to the upper fork of the Demoine, the place of beginning. But it is understood that the lands ceded and relinquished by this Treaty, are to be assigned and allotted under the direction of the President of the United States, to the Tribes now living thereon, or to such other Tribes as the President may locate thereon for hunting, and other purposes.

This treaty was ratified by the Yankton and Santie Bands of Sioux at St. Louis on October 13, 1830. It was proclaimed February 24, 1831.

5. In addition to the lands ceded by Article 1 of said treaty, the Sacs and Foxes, by Article II, ceded to the United States some 2,000,000 acres extending from the Mississippi to the Des Moines River, and lying south of the boundary with the Sioux as fixed by the treaty of August 19, 1825. The four bands constituting the Sioux of the Mississippi, by Article III, ceded a like area north of said boundary.

The consideration paid and promised to the various tribes for the cessions made in the treaty amounted to between \$50,000 and \$60,000, of which approximately one-seventh was to go to the plaintiff tribe.

6. At the time of the treaty of July 15, 1830, and for many years prior thereto, the lands described in Article 1 of said treaty were used, occupied and hunted over by a number of Indian tribes, including those who were parties to said treaty, but no one tribe had exclusive possession of any definite area thereof. The lands ceded by Article 1 comprised a total area of approximately 11,000,000 acres, of which amount 1,900,000 were in Missouri; 9,000,000 in Iowa; and 100,000 in Minnesota. It has not been established in this case that the claimant tribe actually occupied, used or possessed, to the exclusion of other Indian tribes, any part of the lands described in said Article 1.



































