

BEFORE THE INDIAN CLAIMS COMMISSION

THE CADDO TRIBE OF OKLAHOMA, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 226
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: March 8, 1956

FINDINGS OF FACT

1. Plaintiffs herein, the Caddo Tribe of Oklahoma, is a duly incorporated tribe, chartered under the act of June 26, 1936, (49 Stat. 1967). They assert their claim under authority of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1049). The individual plaintiffs are members of the Caddo Nation and Tribe, as well as members of the group entity for whom they sue and as such are entitled to maintain this action. (Evidential findings of fact sustaining are embodied in findings following, numbered 3, 4, 5, 6, 7, 8 and 9.)

2. Plaintiffs' petition filed August 8, 1951, alleged various causes of action including a claim for inadequate consideration under the Treaty of July 1, 1835 (7 Stat. 470) (Pet. 4). Under an order by the Commission of December 15, 1954, the evidence and issue now to be determined was limited to the question of title and ownership of the territory claimed by plaintiffs under this treaty and the area thereof, all other issues being postponed. Under the Commission's order, the

exact acreage possessed by plaintiffs prior to and at the time of the Treaty of July 1, 1835, is at issue.

In the petition of the Caddo Tribe, et al., plaintiffs made various claims for land in Texas and else where than described in the Treaty of July 1, 1835. Counts 2 and 4 of plaintiffs' claim have been dismissed (Tr. 603, ff., 607-608, and order of the Indian Claims Commission of March 1, 1955. Tr. 603, ff). These counts of the petition cover land in Oklahoma and Texas. Since these counts were dismissed, the only claim for land remaining in the petition covers the area described in the Treaty of 1835.

3. Plaintiffs seek to recover the value, less proper credits and offsets, of approximately one million acres of land ceded by the Caddo Nation to the United States under the Treaty of July 1, 1835. The said land lies in northwestern Louisiana and southwestern Arkansas, westerly of the Red River, between said river and the line of the State of Texas, and is identified by Royce as cession 202. The boundaries as given in Article I of the treaty are as follows:

Bounded to the west by the north and south line which separates the said United States from the Republic of Mexico between the Sabine and Red rivers wheresoever the same shall be defined and acknowledged to be by the two governments. On the north and east by the Red River from the point where the said north and south boundary line shall intersect the Red river whether it be in the Territory of Arkansas or the State of Louisiana, following the meanders of the said river down to its junction with the Pascagoula bayou. On the south by the said Pascagoula bayou to its junction with the Bayou Pierre, by said bayou to its junction with Bayou Wallace, by said bayou and Lake Wallace to the mouth of the Cypress bayou thence up said bayou to the point of its intersection with the first mentioned north and south line following the meanders of the said watercourses; but

if the said Cypress bayou be not clearly definable so far then from a point which shall be definable by a line due west till it intersect the said first mentioned north and south boundary line, be the content of land within said boundaries more or less.

4. It appears from the evidence that the term "Caddo Nation" is a generic term and includes all those members of the Caddoan linguistic stock who resided in the general area under consideration. In order to make less confusion when referring to the aboriginal occupants of the area the terms "Hasinai," "Kadohadacho," and "Natchitoches," which refer to the three major confederations in this general area, will be used.

5. The Kadohadacho Confederacy was originally made up of the five following tribes: Kadohadacho, Petit Caddo, Upper Natchitoches, Upper Nasoni, and Nanatsoho (Swanton, 1942: 12-13; 1952: 317-320). The Upper Yatasi and the Cahinnio joined the confederacy later in the period before 1800. The Hasinai Confederacy was made up of at least ten tribes including the Hainai, Nacogdoche, Anadarko, and Lower Nasoni. The Natchitoches Confederacy was made up of the Doustioni, Quachita and Natchitoches. The Lower Yatasi joined them at a later date (Swanton, 1952: 205-207). The Hasinai Confederacy can be eliminated from consideration in this matter since they were an eastern or southeastern Texas group whose area was outside of the treaty boundaries and it was not until after 1835 and most of the Kadohadacho moved into Texas that their respective histories merged.

6. Those tribes which comprise the present plaintiffs, called the Caddo Nation, are the following: Kadohadacho (Cadodacho), Petit Caddo, Upper and Lower Natchitoches, the Adai (Adaes), Yatasi, Nasoni (Nessonites), and Nanatsoho (Natsoos). These names are those used by Swanton and the

bracketed ones those used by the petitioners. These groups were the remnants of the Kadohadacho and Matchitoches Confederacies along with the Adai which is generally not included in either confederacy. These tribes had drawn together in a central location on the Red River between Cypress Bayou and Sulphur Fork or Sulphur River after 1800.

As stated in finding 5 the Caddos removed to Texas after 1835. From Texas these same Indians were eventually removed into what is now the State of Oklahoma (Pet. Ex. 109). As indicated by Swanton (*ibid*) and as testified to by members of petitioner tribe, the traditions and ancestry of the members of the present Caddo Tribe of Oklahoma identifies them as descendants of the original Caddo Indians of Louisiana who were parties to the Treaty of July 1, 1835.

7. Contact with the natives of this area was first made by De Soto's expedition in 1542. After the death of De Soto the expedition was led westward by Luis de Moscoso and met the Nasoni along the Red River. They apparently continued westward into the Hasinai area. The next contact came in 1687 when La Salle's expedition made its way from the southwest into Hasinai territory where LaSalle was murdered and six survivors of the expedition continued northwest until they reached the Kadohadacho villages at the Great Bend of the Red River. The first village contacted was the Upper Nasoni village on the south side of the Red River. They crossed the river and went on to the main Kadohadacho village where they met a Cahinnio Caddo who went east with them to the Cahinnio village near the Ouachita River in Arkansas. In 1690 Henri de Tonti set out to find the remaining members of the LaSalle expedition.

He reached Natchitoches on February 17, 1690, and continuing north he encountered the Yatasi on March 16 and the Kadahadacho on the 28th. He was told by the Kadahadacho that the Upper Natchitoches and the Upper Nasoni villages were a part of the Kadahadacho confederacy.

In 1691 the Spanish sent Teran to explore the country around the Hasinai and he arrived among the Kadohadacho on November 29. After exploring the area for a week he returned to the Hasinai country because of lack of supplies.

In 1700 a Frenchman, Bienville, was sent to look over the Red River country and he was accompanied by St. Denis who was to become famous in the annals of the country. They reached the Red River at the village of the Doustioni, near that of the Lower Natchitoches. From there they continued up river until they reached the village of the Yatasi where they were told that the Kadohadacho village lay farther north. The two of them turned back but almost immediately St. Denis returned to the Lower Natchitoches country where he obtained a guide who took him into the Kadohadacho Confederacy at the Great Bend of the Red River.

On December 17, 1718, Bernard de La Harpe left New Orleans and went up river to Natchitoches, where he arrived in January 1719. Here he found both Natchitoches and Doustioni Indians, as well as some Lower Yatasi. He continued on up river through the nearby Adai territory to Sulphur River. He traveled up the Sulphur River and then overland to the Upper Nasoni village. There he met with the chiefs of the Kadohadacho, Nanatsoho, and Upper Natchitoches towns. The constant contact

with these Indians continued through the French and Spanish until the transfer of the Louisiana Territory to the United States in 1803.

Throughout the greater part of this period the tribes comprising the Kadahadacho Confederacy continued to occupy the aboriginal area above and below the great bend of the Red River as shown on defendant's exhibit 38-A. Around the year 1777 there was a severe epidemic which killed hundreds of Indians in the area, as well as the wife and children of Athanase de Mezieres, the Spanish Lieutenant Governor of Natchitoches District. Swanton states that the Caddo tribe alone lost some 300 people. At the same time the Osage Indians to the north began a continued state of warfare against the Caddos and as a result they began to consider moving from the principal village, which was apparently the Upper Nasoni village on the south side of Red River above the great bend. With the death of Mezieres in 1779 the contemporary reports became scarce but in a letter of March 27, 1790, the Commandant at Natchitoches, Luis De Blanc, wrote to Governor Miro that the Great Caddo had been forced to move their village location two years ago because of the continual war being waged on them by the Osage Indians and that again in the preceding month they had moved; this time into the village of the Petit Caddo on Caddo Lake. (Pl. Ex. 78, p. 36).

There is abundant evidence to the effect that from the time of first contact until approximately 1783 the principal tribes of the Kadahadacho Confederacy lived to the north and northwest of the area ceded by the Caddos in the Treaty of July 1, 1835. The only villages within the area were those of the Yatasi and Petit Caddo, while the

remainder were south and west of the treaty area. The four main tribes living north and northwest of the treaty area were the Kadahadacho, Upper Nasoni, Upper Natchitoches, and Nanatsoho.

From the first contact with the Indians of the general area the remarkable development of agriculture became apparent. There are frequent references to the agricultural achievement of these people and one reference mentions fields stretching for five or six miles around a village. They were not a nomadic people, but rather were well settled. Their only moves apparently came when the fields began to wear out around their village, or else when they were forced to move by enemies. Swanton states that "the Caddo had reached a stage of development where they depended for their livelihood more upon the products of their fields than their gleanings from the wilderness." He characterizes them as sedentary agriculturalists who also did some hunting.

8. With the purchase of Louisiana by the United States in 1803, the first American agent entered the territory. In 1805 Dr. John Sibley was appointed agent and he established a post at Natchitoches where the Spanish had been. Defendant's exhibit 2 is a historical sketch of the Indian tribes of Louisiana written by Sibley. In this sketch Dr. Sibley states that the Kadohadacho lived on Caddo Lake about 35 miles west of the main branch of the Red River and that they had been there only since 1800. Their former home had been far to the north on the south bank of the Red River at a beautiful prairie with a lake in the middle and the Yatasi lived on Stony Creek about half way between the Kadohadacho and that the Indians had left this village in 1791. The Natchitoches and the Adai lived below the Yatasi on Lake Macdon about 20 miles from

the old Spanish post named for them. The Natchitoches lived at a village about 25 miles above the present city of Natchitoches. This apparently refers to the Upper Natchitoches and not the Lower.

As a result of the Freeman-Custis expedition up Red River in 1806 the most detailed map of the river up to that time was made. This Nicholas King map indicates the location of the old Caddo villages and does much to corroborate the fact that the Caddos no longer occupied the area above the treaty cession.

Swanton indicates that there were never any other tribes in the area claimed by the Caddo and that it is extremely doubtful that there were any valid claims by white people to the area where the Caddo settled when they moved down around Caddo Lake. The claim of the Caddo in their memorial to President Jackson in 1835 that their villages had stood where they then were since time immemorial is obviously not correct. They had lived north and northwest until the late 1700's. However, there is no reason to doubt seriously that members of both the Caddo and Natchitoches confederacies had been in the area for a long time, if not from time immemorial. The archaeological situation within the treaty area is not too well developed. It is true that there was occupation of the area below Sulphur River after 1800 by the Caddo and prior to that time by the Petit Caddo, Yatasi and others. The actual physical occupation was, in archaeological terms, very brief and this could account for the absence of or failure to find archaeological remains which are identifiable as those of the Kadohadacho Confederacy.

Despite their move from the original villages both Sibley and the Freeman-Custis expedition indicate that these Indians still maintained

a claim to their former area despite the fact that they had been forced out of it by the Osage.

9. There followed a succession of Indian agents until Captain George Gray was appointed on December 1, 1819. Until that time the agency had been located at Natchitoches. Gray moved it to Sulphur Fork where a small military detachment was located. Due to trouble with whiskey smugglers he moved again in 1824 down to Caddo Prairie where he could better control the trouble.

In 1825, Gray notified the Secretary of War that the Caddo chief had requested that boundaries of the Caddo land be set. Gray then suggested to the chief that Sulphur Fork and Cypress Creek be considered his boundary lines as they were generally known as such (Def. Ex. 35). McKenney of the office of Indian Affairs replied on July 9, 1825, that the chief's request was reasonable and asked Gray to examine the matter and report (Pl. Ex. 108). On September 30, 1825, Gray reaffirmed that the Caddo boundaries were as he had stated, commencing at Sulphur Fork following the Red River to Cypress Bayou (Def. Ex. 9 and 10). When Gray died in 1828, Thomas Griffith was appointed and died shortly thereafter. In 1830 Jehiel Brooks was appointed agent. He moved the agency house to a point south of Cross Lake on the bluffs overlooking the Red River valley. The correspondence of Brooks makes little or no mention of the location of the various groups of Caddo Indians immediately preceding the Treaty of 1835. By this time, though, the pressure of white settlement was becoming very great. However, the shift of the Caddos into the treaty area was apparently completed by the end of the eighteenth century. The

Sibley and Freeman-Custis papers (Def. Ex. 2, 34(c) and 36) indicate that to be so and it appears to have been accepted by the foremost authorities. From information and surmise it would appear that the Natchitoches and Adai had moved up to join the other Caddo group sometime during the period between 1800 and 1835. This move marked the merger of the Kadohadacho and Natchitoches Confederacies and paved the way to the Treaty of July 1, 1835, which was negotiated by Jehiel Brooks as United States Commissioner.

10. Brooks' position as agent was terminated in July of 1834 and he returned to Washington where he received instructions in March, 1835, to negotiate the treaty with the Caddos. The Caddos had memorialized the President sometime during or before January, 1835, to negotiate a treaty for their lands. In the memorial they had set the following boundaries: "These lands are bounded on one side by the Red River, on another side by bayou Pascagoula, bayou and Lake Wallace, and the bayou Cypress; and on the other side by Texas." (Pl. Ex. 142).

In this same memorial the Caddos requested the confirmation of a reservation which they said had been made to Francois Grappe and his three sons. This reservation was described by them as commencing at the lowest corner of their lands on the Red River, (as above described) and running up the river four leagues, and one league from that line back, so as to make four leagues of land. This reservation was said by them to have been made a great many years ago under the Spanish.

In pursuance of this memorial, President Jackson requested the Secretary of War to appoint a Commissioner to negotiate the treaty and Jehiel Brooks was appointed. Brooks was given a copy of the

report by a Col. Many in which the Colonel described the Caddo lands as the boundaries had been set by Captain Gray. Brooks then proceeded to Louisiana where he hired a man by the name of Larkin Edwards, his former interpreter, to assemble the Caddo for the negotiations. About 500 of them came to the agency and it appears that this was about all of the Caddo who survived, with the possible exception of perhaps a hundred or so. Brooks then held a council with the chiefs and agreement was reached after a few days. The boundaries as set in Article I of the treaty are as follows:

Bounded to the west by the north and south line which separates the said United States from the Republic of Mexico between the Sabine and Red Rivers wheresoever the same shall be defined and acknowledged to be by the two governments. On the north and east by the Red River from the point where the said north and south boundary line shall intersect the Red River whether it be in the Territory of Arkansas or the State of Louisiana, following the meanders of the said river down to its junction with the Pascagoula bayou. On the south by the said Pascagoula bayou to its junction with the Bayou Pierre, by said bayou to its junction with Bayou Wallace, by said bayou and Lake Wallace to the mouth of the Cypress bayou thence up said bayou to the point of its intersection with the first mentioned north and south line following the meanders of the said watercourses; but if the said Cypress bayou be not clearly definable so far then from a point which shall be definable by a line due west till it intersect the said first mentioned north and south boundary line, be the content of land within said boundaries more or less.

By articles supplementary to the treaty the reservation to the Grappes requested in the memorial to President Jackson was confirmed and in addition thereto Larkin Edwards was granted one section of land. Both the treaty and the supplementary articles were ratified by Congress, and signed by the President on February 2, 1836. The consideration to the Caddo under the said treaty was \$30,000 in money and goods.

11. We think it unnecessary to make any findings as to the facts involved in the case of United States v. Brooks (10 How. 441) because same are fully set out in the Courts' Opinions. Suffice it to say that it is our construction of the judgment rendered that same was not a determination, that the Caddo Nation and Tribe had Indian Title to the lands involved--but that the holding merely recognized that whatever rights the Indians had in said land had passed to the Grappes and their grantees, as had the interest of the United States in said land, and therefore the United States was denied any recovery thereof.

12. Based on the preceding findings and the evidence supporting same, this Commission finds that the Caddo Indians who were the remnants of the Kadohadacho and Natchitoches Confederacies and the predecessors of plaintiffs in interest, abandoned and did not use and occupy the aboriginal area claimed above the Sulphur River, but that they did continue to use and exclusively occupy in the usual Indian manner after 1800 and until July 1, 1835, when they entered into the treaty with the United States, the land described as follows, to wit:

Starting at the point where the Sulphur River joins the Red River; thence up said Sulphur River to the Texas-Louisiana line; thence south along said line to the point where Cypress Bayou or an extension thereof intersects the said line; thence following the meanders of said Cypress Bayou until it meets Boggy Bayou; thence down said Boggy

Bayou to Wallace Lake and continuing along said Lake and Wallace Bayou until it intersects the Red River; thence up said Red River to the point of beginning.

Edgar E. Witt
Chief Commissioner

Louis J. O'Marr
Associate Commissioner

Wm. M. Holt
Associate Commissioner