

BEFORE THE INDIAN CLAIMS COMMISSION

THE PEORIA TRIBE OF INDIANS OF
OKLAHOMA, and GUY FROMAN on behalf
of the PEORIA NATION, FRED ENSWORTH
on behalf of the KASKASKIA NATION,
AMOS ROBINSON SKYE on behalf of the
WEA NATION, and MABEL STATON PARKER,
on behalf of the PIANKESHAW NATION,
Petitioners,

Docket No. 65

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

Docket No. 66

THE PEORIA TRIBE OF INDIANS OF
OKLAHOMA, and MABEL STATON PARKER on
behalf of the PIANKESHAW NATION,
Petitioners,

Docket No. 99

THE PEORIA TRIBE OF INDIANS OF
OKLAHOMA, and MABEL STATON PARKER on
behalf of the PIANKESHAW NATION,
Petitioners,

Docket No. 289

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

Docket No. 313

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

Docket No. 314

THE PEORIA TRIBE OF INDIANS OF
OKLAHOMA: FRED ENSWORTH, as the
representative of the KASKASKIA NATION;
AMOS ROBINSON SKYE, as the represen-
tative of the WEA NATION: MABEL STATON
PARKER, as the representative of the
PIANKESHAW NATION,

Petitioners,

Docket No. 338

v.

THE UNITED STATES OF AMERICA,

Defendant.

Decided: March 26, 1956

FINDINGS OF FACT

EXPLANATORY STATEMENT

As will be seen by the titles set forth in the caption, the "Peoria Tribe of Indians of Oklahoma" is one of the petitioners in each of the dockets shown. In the original petitions, that petitioner was designated as "The Peoria Tribe of Oklahoma," however, by order made on 26th of March, 1956, the petitioners were permitted to amend the respective petitions by changing the name, as it appeared in the various titles and body of the petitions to "Peoria Tribe of Indians of Oklahoma," which is the real corporate name of the tribe as set forth in the approved and ratified charter of said petitioner. (Pet. Ex. 42).

Inasmuch as the Peoria Tribe of Indians of Oklahoma is a party-claimant in each of said dockets and sues as a corporation organized under the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967) and is asserting claims for or on behalf of the Wea, Kaskaskia, Piankeshaw and Peoria tribes or nations of Indians, and the defendant having challenged the capacity of said corporation to maintain suit on such claims, or either of them, an issue common to all of such cases has been raised. In order to have a determination of such common issue, the parties have agreed, with the approval of the Commission, to submit the same and have offered evidence thereon as is set forth in the findings of fact which follow this statement.

While, as appears from the case-titles shown in the caption, there are in each case named individuals alleged to be members of the separate

tribes and who sue on behalf of the respective tribes, no proof has been offered as to the identity or membership of such individuals in the tribes they purport to represent, and the corporate claimant has seen fit to rely entirely upon the right of such corporate claimant to maintain the various claims.

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. On October 12, 1954, the parties to the above-entitled cases entered into the following agreement with respect to the issues common to said cases:

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the petitioner, the Peoria Tribe of Indians of Oklahoma, by its attorney of record, and the defendant, the United States of America, by its Assistant Attorney General, subject to the consent and approval of the Indian Claims Commission:

A. That the cases assigned Docket Nos. 65, 66, 99, 289, 313, 314 and 338 be consolidated for a single hearing, but only for the purposes hereinafter stated.

B. That the purposes of said consolidation be limited to trial and determination of the following specific issues, which are common to all the aforementioned cases:

1. Whether the Peoria Tribe of Indians of Oklahoma is an "Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States" entitled to file claims pursuant to Section 2 of the Act of August 13, 1946 (60 Stat. 1049, 25 U.S.C. 70a), and Section 1(a) of the General Rules of Procedure promulgated by the Indian Claims Commission.

2. Whether the Peoria Tribe of Indians of Oklahoma (a) is, and was previously known as, the Confederated Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians, or variants thereof; (b) is composed of the Peoria, Kaskaskia, Wea and Piankeshaw Tribes or Nations of Indians; and (c) is, as now constituted, a consolidation of the aforesaid Tribes or Nations.

3. Whether the Peoria Tribe of Indians of Oklahoma (a) is the successor in interest to, and rightfully represents, the Peoria, Kaskaskia, Wea and Piankeshaw Indian Tribes or Nations; and (b) is a proper party plaintiff and entitled to sue on the claims of the afore-said Tribes or Nations.

2. During the late 18th and early 19th centuries, the Peoria, Kaskaskia, Piankeshaw and Wea Nations were independent, identifiable tribes of American Indians, and were so treated by the United States Government. On August 13, 1803, for example, the defendant concluded a treaty (Pet. Ex. 3), with "the head chiefs and warriors of the Kaskaskia Tribe of Indians so called, but which tribe is the remains and rightfully represent all the tribes of the Illinois Indians, originally called the Kaskaskia, Mitchigamia, Cahokia and Tamaroi." (No other Indian tribe or nation was a party to said treaty). Again on September 25, 1818, the United States entered into a treaty (Pet. Ex. 7), with the Kaskaskia Nation and "the Peoria Indians, a tribe of the Illinois nation, who then [1803] did, and still do, live separate and apart from the tribes above-mentioned, and who were not represented in the treaty referred to above"

Similarly, the Federal Government recognized the independent existence of the Piankeshaw Nation in the separate treaties of August 27, 1804 (Pet. Ex. 4), which states that it is "a treaty between the United States of American and the Piankeshaw Tribe of Indians," and of December 20, 1805 (Pet. Ex. 5), which contains an identical recitation. The Wea Nation was once closely affiliated with the Miami Tribe, but subsequently separated therefrom and was recognized by the United States as an independent entity.

Although sovereign and autonomous at this time, however, the Peoria, Kaskaskia, Wea and Piankeshaw Tribes or Nations also were ethnically and politically allied, and further maintained a close and harmonious relationship. The Treaty of Greenville of August 3, 1795 (Pet. Ex. 1), for example, was signed by the Wea "for themselves and the Piankeshaws." On June 7, 1803, the Miami agreed to a treaty (Pet. Ex. 2): "on behalf of themselves and Eel River, Weas, Piankeshaws and Kaskaskias, whom they represent," and, as is noted above, on September 25, 1818, the Peoria and Kaskaskia Tribes, both described as part of the Illinois Nation of Indians, joined to relinquish certain lands to the United States. In this regard, in Hodge, Handbook of American Indians, Bull. 30, Bur. of Amer. Ethnology, the Kaskaskia are characterized as "Once the leading tribe of the Illinois Confederacy" (Pt. I, p. 661), and the Peoria as "One of the principal tribes of the Illinois confederacy" (Pt. II, p. 228); the Piankeshaw and Wea are reported to have moved to Missouri together (Pt. II, p. 240) and jointly to have "endeavored to come into friendly relations with the whites" (Pt. II, p. 925).

3. On October 27, 1832, the United States concluded a treaty (Pet. Ex. 10), at Castor Hill, Missouri, with "the Kaskaskia and Peoria tribes, which, with the Mitchigamia, Cahokia and Tamarois bands, now united with the first two named tribes, formerly composed the Illinois nation of Indians," which recited that

"WHEREAS, the Kaskaskia tribe of Indians and the bands aforesaid united therewith, are desirous of uniting with the Peorias, (composed as aforesaid) on lands west of the State of Missouri, they have therefore for that purpose agreed with the commissioners aforesaid, upon the following stipulations:

* * * *

"Article IV: The United States cede to the combined tribes of Kaskaskias and Peorias, and the bands aforesaid united with them...[certain lands delineated in part] by the western line of the reservation made for the Piankeshaws, Weas and Peorias; and east by lands assigned the Piankeshaws and Weas.

"Article V: In consideration of the foregoing cessions and relinquishments of lands the United [States] agree to pay to the said United Kaskaskia and Peoria tribes (composed as aforesaid) [a stated annuity and other considerations]...."

Thus, by this treaty, which called for a cession to, and the payment of annuities and other consideration to, a united tribe, the United States recognized and approved the complete merger of the Peoria and Kaskaskia Nations.

On October 29, 1832, only two days later, the defendant entered into a treaty (Pet. Ex. 11) with the Piankeshaw and Wea Nations. Under this treaty, the Government jointly ceded to these Indians lands in Kansas in common ownership, for their permanent residence, the borders of which in part were marked "west by lands assigned to the Peorias and Kaskaskias, and south by the southern line of the original tract surveyed for the Piankeshaws, Weas and Peorias,—said tract being intended to include the present villages of the said Piankeshaws and Weas." The United States thus recognized the previously existing association of the Wea and Piankeshaw Nations, and explicitly approved a continuing close relationship between these groups.

4. On December 26, 1848, certain Indians, headed by one Baptiste Peoria, wrote to Major Harvey, Superintendent of Indian Affairs at St. Louis, in part as follows:

"We write to you to inform you, that on yesterday we held a general council composed of Weas, Piankeshaws, and Peorias, the result of which was that we resolved all to meet around one council fire, and henceforth we wish to be known as the

United Tribe of Weas, Piankeshaws, and Peorias. * * * We think now that we are stronger, and it will be more convenient for our great father to do business with us." (Pet. Ex. 12)

On January 6, 1849, Superintendent Harvey transmitted this letter to the Honorable William Medill, Commissioner of Indian Affairs, in Washington, together with a report which read in part as follows:

I have the honor to enclose a paper this day recd, signed by the principal men of the Wea, Piankeshaw & Peoria tribes of Indians, in which they have determined to unite as one people, live in the same country, & divide their annuities as one people.

The Peorias from their small number & isolated condition, being exposed to depredations from the Osages, Kansas & Sacs & Foxes are compelled to move down among the Weas, & Piankeshaws for protection, they are the same people (originally) speaking the same language with the Weas, Piankeshaws & Miamis.

* * * * *

I need not point out to you the advantages of small tribes uniting, both for their own interest, and the convenience of the Government.

I am in hopes that the union of the Weas, Piankeshaws, & Peorias may lead to the union of other small tribes. It is desirable that the Miamis may unite with them; the man they have selected as principal chief (Baptiste Peoria) is one of the most influential men among our border Indians, & one of the most faithful men in the employment of Government (Interpreter).

It is proper that I should here remark that while I have advised the union of the Peorias &c I have not held out an order that the Government would purchase the Peorias' land. (Pet. Ex. 13).

On February 14, 1849, Commissioner Medill advised Superintendent Harvey that the union of the Peoria, Kaskaskia, Wea and Piankeshaw Indians had his approval:

I have received and duly considered your letter of the 6th ultimo and its enclosure, in relation to the union that has been formed between the Peorias, Weas and Piankeshaws. I fully concur in your views of the propriety and expediency of encouraging small tribes, like these, in forming such unions, which will promote their interests and welfare, and the convenience of the government in managing our relations with them.

With respect to the mode of confirming and giving effect to the union between the Peorias, Weas and Piankeshaws, I am of the opinion that it should be done formally by a quadruple treaty, the United States being the fourth party thereto. This will give permanency to the act and prevent any of the parties from hereafter withdrawing therefrom, and will definitely and specifically define and settle their relations, in their united capacity, with the United States. The Department also prefers this course in consequence of the difficulty, perplexity and embarrassment it has had to contend with in consequence of disputes and claims growing out of arrangements of an informal character, affecting the relations and interests of different tribes.

It is therefore proposed, as soon as it can conveniently be done, to enter into a treaty with the three tribes mentioned, by which a tract of country, sufficient and suitable for this accommodation, will be assigned them for a permanent residence out of the lands belonging to the Piankeshaws, or partly to them and those of the Peorias, as may be found most suitable; and the balance to be surrendered to the United States. * * *

If you think such an arrangement, as that generally indicated, practicable, and easy of accomplishment in the form of a treaty, and will suggest the best time and mode of consummating it, the Department will endeavor to concert the proper measures for the purpose. (Pet. Ex. 14).

Thereafter, the defendant fostered and encouraged the union of the Peoria, Kaskaskia, Wea and Piankeshaw Indians into a single tribe. (Pet. Ex. 16). Subsequently, on October 3, 1853, George W. Manypenny, then Commissioner of Indian Affairs, held a council with the Peoria, Kaskaskia, Wea and Piankeshaw chiefs "to see if they were disposed to sell a part or all of their lands," at which a Peoria leader again declared that "We have agreed to unite with the Wea and Peankeshaw nation and become— one United Nation." (Pet. Ex. 17).

Beginning in 1849, therefore, the Peoria, Kaskaskia, Wea and Piankeshaw Indians had consolidated into a single tribe, and the United States affirmatively approved that merger. From that time on, in all of its dealings with these Indians, the Federal Government treated them as a single unit.

5. In his letter of February 14, 1849, Commissioner Medill officially had recommended that the de facto union of the Peoria, Kaskaskia, Wea and Piankeshaw Indians be formally recognized in a treaty binding upon all parties, including the United States. (Pet. Ex. 14; quoted under Finding No. 4, supra). Pursuant to this recommendation, on May 30, 1854, the defendant concluded a treaty (Pet. Ex. 18) with the Confederated Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians, Article I of which reads as follows:

The tribes of Kaskaskia and Peoria Indians, and of Piankeshaw and Wea Indians, parties to the two treaties made with them respectively by Wm. Clark, Frank J. Allen and Nathan Kouns, commissioners on the part of the United States, at Castor Hill, on the twenty-seventh and twenty-ninth days of October, one thousand eight hundred and thirty-two, having recently in joint council assembled, united themselves into a single tribe, and having expressed a desire to be recognized and regarded as such, the United States hereby assent to the action of said joint council to this end, and now recognize the delegates who sign and seal this document as the authorized representatives of said consolidated tribe.

In transmitting this treaty to Secretary of the Interior McClelland on June 8, 1854, Commissioner Manypenny observed in part:

I have the honor to transmit to you herewith, the Articles of Agreement and Convention, made and entered into at this city on the 30th ultimo, by me as Commissioner on the part of the United States, with the United tribes of Kaskaskia and Peoria, and Wea and Piankeshaw Indians.

These fragmentary tribes, having recently met in convention and united themselves to form a single tribe, the convention now entered into recognizes the consolidation. (Pet. Ex. 19).

Thus, in clear, unequivocal and convincing language, the United States specifically acknowledged the union of the Peoria, Kaskaskia, Wea and Piankeshaw Indians into a single tribe.

Under the treaty of October 27, 1832 (Pet. Ex. 10), the United Peoria and Kaskaskia Nation was granted 150 sections of land in Kansas

forever, and an annuity of \$3,000 for ten years; under the treaty of October 29, 1832 (Pet. Ex. 11), the Wea and Piankeshaw Nations were granted 250 sections of land in Kansas for their permanent residence, and the annuities to which these Indians were entitled pursuant to earlier agreements with the defendant remained in full force and effect. By 1854 the Peoria-Kaskaskia annuity had expired, and the landholdings of the two groups were unequal in size.

Article VI of the 1854 treaty, however, expressly stipulates that the only continuing obligations of the United States then existing, i.e., permanent annuities of \$3,000 and \$800 due to the Wea and Piankeshaw Nations respectively, be relinquished and released, and in consideration of that and other releases and relinquishments the defendant agreed to pay the united tribes, including the Peoria and Kaskaskia Indians \$66,000. Similarly, under Articles II, III and IV, the United Peoria and Kaskaskia Tribe and the Wea and Piankeshaw Nations also separately ceded unequal areas of land in return for allotments and funds to be distributed equally to members of the United Tribe or to be held by the Government in the name of the United Tribe. Thereafter, the United States always treated the constituent parts of the United Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians as being a single entity, and at every subsequent distribution of tribal funds, the defendant divided said funds equally to all members of the consolidated tribe, regardless of their blood or the original source or date of acquisition thereof.

Thus, pursuant to the treaty of May 30, 1854, the United Peoria and Kaskaskia Tribe came to share in annuities and lands which previously

the Wea and Piankeshaw Nations alone had enjoyed, while the latter Indians became entitled to comparable rights in the funds of the former group. In addition, although the original property contributions of the parties to the treaty were unequal, after 1854 the per capita shares of every Peoria, Kaskaskia, Wea and Piankeshaw Indian in the combined funds of the Confederated Tribe were identical. The 1854 treaty, therefore, clearly effected the formal consolidation of the Peoria, Kaskaskia, Wea and Piankeshaw Indians into a single tribe.

6. On February 23, 1867, the United States concluded a treaty, (Pet. Ex. 20) with the Confederated Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians, among other Indian groups, the Preamble of which recites:

* * * it is desirable that arrangements should be made by which portions of certain tribes, parties hereto, now residing in Kansas, should be enabled to remove to other lands in the Indian country south of that State * * *.

Article 23 of said treaty, relating specifically to the Confederated Tribe, further states:

* * * The said Indians agree to dispose of their allotments in Kansas and remove to their new homes in the Indian country within two years from the ratification of this treaty. * * *.

The Confederated Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians moved from Kansas to Oklahoma. (Findings 7, 8 and 9, infra.) In this regard, the Compilation of Materials Relating to the Indians of the United States, (Serial No. 30, June 13, 1950, H. Res. 66, 81st Cong., 2d Session) states:

Kaskaskia

An Algonquian group which was once the leading tribe of the Illinois Confederacy on the Upper Illinois and Wisconsin. They removed in 1832 west of the Mississippi to Kansas. In 1867 they took a reservation in Oklahoma with the Peoria. * * *. (p. 23)

Peoria or Cahokia

An Algonquian tribe living in the 17th century on the west side of the Mississippi River in Iowa. Later they moved to Illinois and in 1832 to Kansas where they were joined by other tribes such as the Wea and Piankashaw. They have been settled on a reservation in Oklahoma for many years. (p. 37)

Piankashaw

* * * Early in the 19th century they moved westward across the Mississippi and united with the Peoria, Kaskaskia, and Wea to move to Peoria Reservation, Okla. (p. 37)

Wea

An Algonquian tribe very closely related to the Miami.
* * * In 1832 they moved to Kansas and in 1868 to Oklahoma with the Peoria and Piankashaw. (p. 53)

Similarly, Hodge, Handbook of American Indians, contains the quotation:

In 1854 the Wea and Piankeshaw united with them [Peoria and Kaskaskia], and in 1868 the entire body removed to Indian Ter. (Oklahoma), where they now reside. (Pt. II, p. 228)

7. In Swanton, The Indian Tribes of North America, Bull. 145, Bureau of American Ethnology (1952), it is stated at page 300:

In 1868 the surviving Illinois Indians, principally Peoria and Kaskaskia, previously united with the Miami bands, Wea and Piankeshaw, moved to Oklahoma and occupied a reserve in the northeastern part of the State under the name Peoria.

To the same effect is the following quotation from Hodge, Handbook of American Indians:

About 1854 the consolidated tribe [Wea and Piankeshaw] united with the remnant of the Illinois, then known as Peoria and Kaskaskia, and in 1867 the entire body sold their lands in Kansas and removed to the present Oklahoma, where they are now known under the name of Peoria. (Pt. II, p. 240)

After removal to the State of Oklahoma, the Confederated Tribe of Peoria, Kaskaskia, Wea and Piankeshaw Indians eventually came to be known as simply the Peoria Tribe.

