

However, this tract proved to be unsuitable to the Delawares for several reasons, one of which was the hostility which developed between them and the Osages who were immediately to the west, and between them and the Cherokees who were south of them in Arkansas. Other reasons were the poor quality of the soil and the absence of game.

By the so-called Supplemental Treaty of September 24, 1829, the "Delaware Nation" relinquished "all claim whatever to the country now occupied by them in the State of Missouri."

By a treaty executed at Castor Hill in St. Louis County, on October 26, 1832, "The Delawares and Shawanes late of Cape Girardeau" ceded and relinquished "all their lands within the State of Missouri." Reference was made in this treaty, as it was also in a treaty with the Shawnees dated November 7, 1825, to the lands which had been granted them by the Spaniards at Cape Girardeau in 1793.

From this time until 1843 the Delaware reservation in the fork of the Kansas and Missouri rivers remained as described in the Supplemental Treaty of 1829, and was the only land recognized as belonging to the Delaware Indians from 1829 to 1866. On December 14, 1843, the Delawares ceded 39 sections of their reservation to the Wyandot Indians (2 Kappler 1048).

The Delawares continued to occupy their diminished reserve after the sale to the Wyandots until, by the treaty of May 6, 1854, they ceded to the United States a large portion of their reservation, including the "Outlet."

On January 4, 1793, Baron Carondelet, the Spanish Governor at St. Louis, granted certain bands of Delaware and Shawnee Indians who wished to move beyond the Mississippi from Ohio and Indiana, a tract of land at Cape Girardeau in Missouri on the Mississippi River (Area 125, Royce, Missouri 2). A number of these two tribes removed to this grant, but during the years 1807 to 1815, the pressure from white settlements, and depredations by the Osage Indians, caused a number of the Delawares at Cape Girardeau to seek new places of abode, some going to Arkansas, some to Texas, which was then Spanish Territory, where, by 1820, the Delawares numbered some 700. Evidence: Pet. (241) Exs. 70, 77A, 77B, 77C, 77D, 78.

48. Many Delaware Indians moved on to the land assigned to them in Kansas. A portion of the members of the Delaware Tribe, however, remained in sections of Oklahoma and Texas. A group of Delaware Indians on its way from Texas to Kansas in 1853 obtained permission from the Choctaw Nation in Oklahoma to stay on its land as tenants at will, reserving the right to return to their own country in Kansas at any time, and the Choctaws reserving the right to expel them at any time. Some of them subsequently did move to Kansas where they were accepted as citizens with rights equal to those of the Delawares who had preceded them there. Evidence: Def. Exs. 5, 12, Pet. (241) Exs. 92, 94, 96, 97.

49. Probably a majority of the Delaware Indians removed to the reservation provided for the Delawares in Kansas where they remained until 1867, when, by agreement dated April 8, 1867, entered into between them and the Cherokee Nation occupying land in Indian Territory, they acquired lands from the Cherokees and the right to become members of the Cherokee Nation.

Said agreement referred to the lands to be acquired "in the aggregate equal to 160 acres of land for each individual of the Delaware Tribe who has been enrolled upon a certain register made Feb'y. 18, 1867, by the Delaware Agent and on file in the office of Indian Affairs, being the list of the Delawares who elect to remove to the 'Indian Country,' to which list may be added, only with the consent of the Delaware Council, the names of such other Delawares as may, within one month after the signing of this Agreement, desire to be added thereto, * * *." Evidence: Def. Ex. 33.

50. The Delaware Indians who removed to the Cherokee territory became members and citizens of the Cherokee Nation, but they and their descendants, maintained group identity, receiving annual payments from their own tribal funds, having tribal chiefs and groups and business committees continuously until the present time, and at this time. Evidence: Pet. (27-A) Exs. 1, 3, 5, 9, 10, 11, 17 and 18.

51. Some of the Delawares living south of the Arkansas had gone to live with their compatriots in Kansas before removal to the Cherokee territory. Some of the so-called southern Delawares, together with some of the Kansas Delawares, and at a later period some of the Cherokee Delawares, came to live in the Anadarko, Oklahoma, area after the treaty of 1829; these Delawares, and their descendants, maintained group identity, having chiefs and a tribal council up until and at the present time, and known as Absentee Delawares, and the Delaware Tribe of Indians, under the jurisdiction of the Western Oklahoma Consolidated Agency, Anadarko, Oklahoma. Evidence: Pet. (211) Exs. 2, 56, 67, 99, 100 and 102.

52. The petitioner, the Absentee Delaware Tribe of Oklahoma, consists of Delaware Indians now residing among the Wichita and Caddo Indians at Anadarko, Oklahoma, on what was formerly known as the Wichita Reservation in Western Oklahoma. These Indians, descendants of the Delaware Nation as constituted in 1818, form an identifiable group within the meaning of the Indian Claims Commission Act. See Findings 47-51.

53. The petitioners, W. E. Exendine and Myrtle Holder, are members of the Absentee Delaware Tribe. They have brought this action in a representative capacity on behalf of all the descendants of the Delaware Nation as constituted in 1818, including the group referred to in Finding 50 above. Evidence: Pet. (241) Ex. 3, pp. 5, 14, and Findings 47-51.

Edgar E. Witt
Chief Commissioner

Louis J. O'Marr
Associate Commissioner

Wm. M. Holt
Associate Commissioner