

Modifying 5 Ind.Cl.Comm. 316

BEFORE THE INDIAN CLAIMS COMMISSION

OTOE AND MISSOURIA TRIBE OF INDIANS,)
)
 Plaintiff,)
)
 vs.) Docket No. 11-A
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

THE IOWA TRIBE OF THE IOWA RESERVATION)
 IN KANSAS AND NEBRASKA, THE IOWA TRIBE)
 OF THE IOWA RESERVATION IN OKLAHOMA, et)
 al., OMAHA TRIBE OF NEBRASKA, et al.,)
 THE SAC AND FOX TRIBE OF INDIANS OF)
 OKLAHOMA, THE SAC AND FOX TRIBE OF)
 MISSOURI, SAC AND FOX TRIBE OF THE)
 MISSISSIPPI IN IOWA, et al.,)
)
 Petitioners,)
)
 vs.) Docket No. 138
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

ORDER ON MOTIONS FOR REHEARING, AND TO AMEND FINDINGS, AND REQUESTING
THE CERTIFYING OF LAW QUESTIONS TO THE COURT OF CLAIMS

Defendant by motion filed on August 23, 1957 asks for rehearing and for the certifying of law questions to the Court of Claims; petitioners Otoe and Missouri Tribe and the Omaha Tribe join in motion for rehearing and to amend findings and interlocutory order dated July 31, 1957, said motion having been filed on September 3, 1957; motion of Sac and Fox for rehearing was filed on September 13, 1957; and on September 23, 1957 the defendant filed a response to the motions filed by petitioners and renewed its request for the certification of questions of law to the Court of Claims.

The above motions came on for hearing before the Commission on November 5, 1957 and oral argument was heard thereon at that time; and the Commission having heard said arguments of Counsel for all interested parties and the said motions having been taken under advisement, and the Commission being now fully advised, finds with reference thereto as follows:

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The Commission finds, AND IT IS HEREBY ORDERED AND ADJUDGED, that the motions for rehearing should be and they are hereby denied and overruled; and that the motions for the amendment of findings and of interlocutory order granted as hereinafter provided, to wit:

That in Finding No. 49 that sub-paragraph (4) be stricken and that said Finding No. 49(4) be made to read as follows, to wit:

49(4) We conclude and find therefore, that the territorial rights or interests of the respective tribes in the lands of the 1830 cession (Tract 151), passed to the United States in the manner and on the dates as follows:

(a) That part of the cession situate in northwest Missouri, known as the Platte Purchase, was ceded to the defendant by the Iowa Tribe by the Treaty of September 17, 1836 (7 Stat. 511); by the Sac and Fox Tribe by the Treaties of September 17, 1836 (7 Stat. 511) and of September 27, 1836 (7 Stat. 516); by the Otoe and Missouri Tribe by the Treaty of October 15, 1836 (7 Stat. 524); and by the Omaha Tribe by the Treaty of October 15, 1836 (7 Stat. 524), and the respective rights of each of the Tribes in the Platte Purchase passed on the respective dates of the aforesaid treaties;

(b) That part of the cession lying below the line fixed in Article 2 of the Treaty of August 19, 1825 down to the Missouri-Iowa state line was ceded to the defendant by the Iowa Tribe by the Treaty of November 23, 1837 (7 Stat. 547), and the Iowas' rights therein passed to the defendant on February 16, 1838, the date the treaty was ratified; by the Sac and Fox Tribe by the Treaties of October 21, 1837 (7 Stat. 540; 7 Stat. 543) and the rights of the Sac and Fox Tribe therein passed to the defendant on February 16, 1838, the date said treaties were ratified; by the Otoe and Missouri Tribe by the Treaty of March 15, 1854 (10 Stat. 1038) and the Otoe and Missouri rights therein passed to the defendant on April 17, 1854, the date said treaty was ratified; and by the Omaha Tribe by the Treaty of March 16, 1854 (10 Stat. 1043) and the rights of the Omaha Tribe therein passed to the defendant on April 17, 1854, the date said treaty was ratified.

And that Finding No. 50 of said previous findings be stricken and that in lieu thereof said finding shall be made to read, as follows:

50. The exterior boundary of the lands involved in these cases (Cession 151) was defined by Article 1 of the Treaty of July 15, 1830 (7 Stat. 328). Under the 1830 treaty the four tribes received the area in suit in common. We accordingly find that the interest of the tribes under the 1830 treaty were as follows:

An undivided one-fourth interest each to the Iowa Tribe or Nation, the Otoe and Missouri Tribe, the Omaha Tribe and the Sac and Fox Tribe in that part of Tract 151 lying south of the line described in Article 2 of the Treaty of August 19, 1825. (See Finding 2)

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the interlocutory order of July 31, 1957 be changed and amended as follows, to wit: that all of sub-paragraph (2) of paragraph 3 thereof be stricken and that said sub-paragraph (2) shall be made to read, as follows:

3(2) the acreage of that part of Area 131 lying south of the line described in Article 2 of the Treaty of August 19, 1825.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the aforesaid motions are overruled and denied except in accordance with amendments to findings and interlocutory order as hereinabove set out.

Dated at Washington, D. C., this the 29th day of November, 1957.

Chief Commissioner

Associate Commissioner

Associate Commissioner