

BEFORE THE INDIAN CLAIMS COMMISSION

CITIZEN BAND OF POTAWATOMI)	
INDIANS OF OKLAHOMA, et al.,)	Docket No. 146
)	
Petitioners,)	

THE POTAWATOMIE TRIBE OF INDIANS,)	
THE PRAIRIE BAND OF THE POTAWATOMIE TRIBE OF INDIANS, et al.,)	Docket No. 15-M
)	
Petitioners,)	

JAMES STRONG, et al., as the Representatives and on behalf of all members by blood of the CHIPPEWA TRIBE OF INDIANS,)	
)	Docket No. 13-M
)	
Plaintiffs,)	

ROBERT DOMING, et al., as the Representatives and on behalf of all members by blood of the OTTAWA TRIBE OF INDIANS,)	
)	Docket No. 40-K
)	
Plaintiffs,)	

HANNAHVILLE INDIAN COMMUNITY, Wilson, Michigan, FOREST COUNTY POTAWATOMI COMMUNITY, Crandon, Wisconsin, et al.,)	
)	Docket No. 29-K
)	
Plaintiffs,)	

vs.

THE UNITED STATES OF AMERICA,)
Defendant.)

Decided: June 30, 1958

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. Dockets 146, 15-M, 13-M, 40-K and 29-K were consolidated for trial on the question of Indian title to the land involved.

The five petitioner groups have filed three sets of Proposed Findings of Fact and Briefs and of Objections to Defendant's Proposed Findings; one jointly by the petitioners in Dockets 146 and 15-M, one jointly by the petitioners in Dockets 13-M and 40-K, and the petitioners in Docket 29-K have filed separate pleadings. Each of the parties has the capacity to institute and prosecute actions before the Indian Claims Commission, and each of the claims asserted in these respective dockets is within the jurisdiction of this Commission.

2. The Ottawa, Potawatomi and Chippewa Indians are each of Algonquin stock. Their languages are not identical but are mutually intelligible. Since their earliest contact by the white man, neither nation has had a political entity embracing all the cultural or ethnic groupings under their national name, but each has been divided into separate units, groups or bands, acting entirely autonomously and independently of any central authority. Each separate unit was early identified with its geographic location, and the United States has dealt with such separate units as political entities, particularly with respect to land purchases. Since time immemorial it has been a common custom among each of these units to confer membership upon those individual Indians residing with any one band or group. A permanent change of residence from the land of one band to that of another constituted a corresponding change in membership and an abandonment or waiver of right to participate in property or other rights of the group or band in which membership was formerly held. In like manner, and through intermarriage, members of one nationality were readily adopted into bands of another.

The Ottawa were canoe Indians, traveling great distances in their bark canoes. The Potawatomi did not use canoes but had horses which enabled them to keep in communication with each other. (Def. Ex. 1, pp. 133, 144-6, Dkt. 146) The three divisions were each agriculturalists, annually planting and tending cornfields about their villages but hunting and trapping during the winter season within areas sufficiently far removed from their village sites for the wild game to be plentiful.

3. The Saginaw Chippewa Indian tribe of Michigan and one James Strong as representative of all members of the Chippewa Tribe of Indians originally filed Docket 13 with this Commission, setting out the claim presently advanced in Docket 13-M, together with several others. By process of amendment this claim is now advanced by James Strong and some 80 other individual petitioners. It has heretofore been determined that the Saginaw Chippewa Indian Tribe of Michigan is comprised of the former Saginaw, Swan Creek and Black River bands of Chippewa Indians (Dockets 13-H, 13-J), but it has not been positively established that any of the several individual petitioners herein are successors in interest to the Saginaw, Swan Creek or Black River bands of Chippewa Indians and entitled to institute this action.

Only two groups of Ottawa Indians were receiving annuities from the United States in 1821. They were Ottawa Indians residing in the present State of Michigan who were known as the Ottawa of Grand River and Ottawa Indians residing in the present State of Ohio who were known as the Ottawa of the Maumee, Blanchard's Fork and Roche de Boeuf. The petitioners in Docket 40-K and consolidated Dockets 40-B, C, D, E, and

, are successors in interest to the Ottawa of Grand River in Michigan, and include Indians whose ancestors resided in the northern part of the area here involved and who were known as the Grand River Band of Ottawa Indians, as well as other Ottawa Indians whose ancestors in 1821 resided about L'Arbre Croche and elsewhere within northern Michigan. (2 I.C.C. 461-467)

The petitioners herein, Citizen Band of Potawatomi Indians of Oklahoma, the Prairie Band of the Potawatomi Tribe of Indians, and the Hannahville Indian Community, Wilson, Michigan, and Forest County Potawatomi Community, Crandon, Wisconsin, and the several individuals representing these various groups, were before this Commission in Consolidated Dockets 71-A, 15-J, et al. The Commission there determined that at one time a southern division of the Potawatomi Indians consisted of five separate units which were known as: (1) The United Nation, including federated or allied individual Indians of Ottawa and Chippewa ancestry and sometimes called the Ottawa, Chippewa and Potawatomi Nation, which resided west of Lake Michigan; (2) Potawatomi of St. Joseph, more commonly called the Potawatomi of Indiana and Michigan; (3) Potawatomi of the Prairie and Kankakee; (4) Potawatomi of the Wabash; and (5) Potawatomi of the Huron, sometimes called the Potawatomi of the Huron and Raisin Rivers, or the Huron Band of Potawatomi Indians. That the United Nation, the Kankakee Band, Wabash Band, and St. Joseph Band ultimately united to form the United Potawatomi Nation in Kansas, and subsequently divided into the present petitioners, the Citizen and the Prairie Bands.

4. The Huron Band was not a party to the treaties of cession executed by the Potawatomi Indians before or during 1833, and it continued to reside in Michigan. The Pokagon Band is a group of the St. Joseph Band of Potawatomi Indians who had become converted to the Catholic faith and by reason thereof were given permission in the supplementary articles to the Potawatomi treaty of 1833, (7 Stat. 431, 4 I.C.C. 490) to remain in Michigan when the St. Joseph Band moved west. A number of other Potawatomi Indians refused to move west and instead moved into northern Wisconsin, northern Michigan and Canada. Yet other Potawatomi Indians moved to Kansas and later returned to their homeland; these can not now be identified. The Huron Band, the Pokagon Band, and those individual Potawatomi who either remained in the east without permission or returned there from Kansas, exclusive of those residing in Canada, are represented therein by the Hannahville Indian Community of Wilson, Michigan, and the Forest County Potawatomi Community of Crandon, Wisconsin, the petitioners in Docket 29-K. Said petitioners make no claim in their own right but assert that they represent Indians whose ancestors were members of the Potawatomi Nation and owned the land ceded by the Treaty of August 29, 1821; "that they are entitled to participate in any award hereinafter granted based upon that treaty."

The petitioners Michael Williams and Albert Mackety are descendants of members of the Pokagon and the Huron band, respectively, and appear in behalf of all members of such bands and their descendants.

5. Under the Jurisdictional Act of March 19, 1890, the Potawatomi Indians in Michigan and Indiana presented their claim of right to participate in tribal annuities and funds of the Potawatomi Nation to the

Court of Claims for adjudication. The Court found, and the Supreme Court affirmed (270 Cls. 403, 148 U.S. 689), that following the 1833 treaty of cession 2,812 Potawatomi Indians moved west of the Mississippi River and 1,100 remained in Michigan or Indiana; that of this later number only 291 were entitled to remain in the east and continue to participate in funds and assets of the Potawatomi Nation under the supplementary articles of the 1833 treaty; and that the United States had waived an additional requirement that this group move into northern Michigan. This enumeration excluded the Potawatomi of the Huron who were not parties to that litigation. (Dkt. 15-J, Fdg. 43, 4 I.E.C. 503)

The 291 persons permitted to remain east of the Mississippi River were thereafter known as the Pokagon Band of Potawatomi Indians. The courts decreed in the above litigation that an accounting of the assets and funds of the Potawatomi Nation was due the Pokagon Band on the ratio of 2,812 to 291. (Pet. Prop. Fdg. 28, Dkt. 29-K)

Thereafter, on April 21, 1904, 33 Stat. 189, 210, Congress appropriated \$78,399.25 for distribution among 271 other Potawatomi Indians residing in Michigan and Indiana who the Court of Claims found in subsequent litigation (37 C.Cls. 427, 187 U.S. 370) had been omitted when the Pokagon Band was enrolled preliminary to disbursement of the moneys paid to the membership of that band upon the accounting made to it under the earlier action.

Potawatomi Indians residing in Wisconsin also claimed a right to participate in the annuities and funds of the Potawatomi Nation (Dkt. 15-J, Fdg. 36, 4 I.C.C. 500). On June 21, Congress directed the

Secretary of the Interior to investigate their claims, enroll the claimants and report. (34Stat. 380) The enrollment was conducted by Walter M. Wooster in 1907-8. All Potawatomi Indians whose ancestors had removed west of the Mississippi River or who had resided in southern Wisconsin and Michigan were omitted from that roll. 457 Potawatomi Indians residing in the United States and 1,550 residing in Canada who had at least one ancestor, on either side, having Potawatomi blood, and who were not enrolled with any other tribe of Indians were then enrolled. Their ancestors included Chippewa, Ottawa, Menominee and Winnebago Indians. (Dkt. 15-J, Fdg. 56,57, 4 I.C.C. 510,511)

Following the Secretary's report that \$447,339 represented the proportionate share in tribal annuities and funds which these enrolled Indians would have received had they participated in Potawatomi annuities theretofore paid (House Doc. 830, 60th Cong. 1st Sess., 38 Stat. 102, June 30, 1913), Congress appropriated that sum for distribution among 457 Potawatomi Indians residing in Wisconsin and upper Michigan. None of the appropriations were taken from assets or funds of or charged against the Potawatomi Indians who had moved west of the Mississippi. (Fdg. 57, Dkt. 15-J, 4 I.C.C. 511)

6. Among the Indians signatory to the treaty of Greenville, 7 Stat. 49, dated August 3, 1795, was the St. Joseph Band of Potawatomi Indians. While that treaty recognized that Indian title or right of occupancy of land in the Northwest Territory remained in the Indians residing upon it, such recognition was limited to the parties signing that treaty, and did not relieve them from the necessity of identifying the land to which their right of occupancy attached. Miami Indians vs. United States, 5 I.C.C. 180, 214.

7. Under the treaty of Ghent in 1783 the United States acquired sovereignty and technical control of the country south of the Great Lakes. The Indian tribes therein continued hostile to the new nation, and a series of military conflicts finally led in 1795 to the establishment of a boundary line between the various Indian tribes and the United States by means of the Treaty of Greenville, 7 Stat. 49, in which the policy of right of Indian occupancy of the land with the fee title there- to remaining in the United States was carefully set out. The lucrative fur trade with the Indians in this region which had been instigated by the French and developed by the English who took over control of this region from them, the preservation of peace and safety along the frontier, the necessity of controlling navigation on the Great Lakes which promised to be of major importance to the economy of the country, and the need for new lands to accommodate the expanding nation, all led to the United States later adopting a policy of treating with these Indians occupying the country west of the 1795 treaty line, for the acquisition of their lands, trade, friendship and allegiance. (Def. Ex. 51, Dkt. 146)

8. On June 1, 1820, the Secretary of War, John C. Calhoun, advised one Solomon Sibley and one Lewis Cass, then Governor of the Territory of Michigan and Superintendent of Indian Affairs therein, of their appointment to treat with the Indians in Michigan Territory for which purpose Congress had appropriated \$20,000 on April 11, 1820. (Pet. Ex. 15, Dkt. 29-K) The powers of the treaty commissioners were broadly stated.

It is the wish of the President that the whole of the Indian titles within the peninsula of Michigan should be extinguished, in order to strengthen our population and resources in

that heretofore feeble portion of our country. Any suitable arrangement by which the tribes who now inhabit it can be induced to change their residence to the west of Lake Michigan, or even to the west of the Mississippi, will meet with his approbation.

The commissioners thereafter arranged to hold a council during August, 1821, at the site of Chicago because any needed military protection would be readily available from nearby Fort Dearborn, and because it was conveniently located for the accommodation of the Indians and the transportation of supplies. (Pet. Ex. 95, Dkt. 146) During the council Governor Cass advised the Indians:

The country we propose to purchase of you is this. Beginning at the south end of Lake Michigan, at the mouth of the Mississinonkico, or Grand Konomick, and running towards sun-rise untill it strikes the lands that the Pottowatomies granted to their father at Fort Meigs. From thence running along the line of Hull's treaty north to a point directly opposite the mouth of Grand river on Lake Michigan, and thence due west to the mouth of that river. In other words, all the lands between the Grand Konomick and Grand river on lake Michigan extending towards the rising of the sun until it meets the old grants.

The council began August 17th, 1821, and closed August 23rd.

The treaty was signed August 29th, 1821, and was forwarded to the Secretary of War on September 12, 1821 (Pet. Ex. 93, Def. Ex. 61, Dkt. 146), and was ratified and proclaimed March 25th, 1822. (7 Stat. 218)

9. (a) The area ceded by Article 1 of the 1821 treaty is located in the southeastern corner of the southern Michigan peninsula, in southern Michigan and northern Indiana. It is identified as Area 117 upon Royce's Maps of Michigan and Indiana. (B.A.E. Vol. 18) It is described in the treaty as follows:

* * Beginning at a point on the south bank of the river St. Joseph of Lake Michigan, near the Parc aux Vaches, due north from Rum's Village, and running thence south to a line drawn due east from the southern extreme of Lake Michigan, thence

with the said line east to the Tract ceded by the Pottawatomies to the United States by the Treaty of Fort Meigs in 1817, if the said line should strike the said Tract, but if the said line should pass north of the said Tract, then such line shall be continued until it strikes the western boundary of the Tract ceded to the United States by the Treaty of Detroit in 1807, and from the termination of the said line, following the boundaries of former cessions, to the main branch of the Grand River of Lake Michigan, should any of the said lines cross the said River, but if none of the said lines should cross the said River, then to a point due east of the source of the said main branch of the said River, and from such point due west to the source of the said principal branch, and from the crossing of the said River, or from the source thereof, as the case may be, down the said River, on the north bank thereof, to the mouth; thence following the shore of Lake Michigan to the south bank of the said river St. Joseph, at the mouth thereof, and thence with the said south bank to the place of beginning.

(b) The Grand river from its mouth on Lake Michigan to a point where the westerly line of the Chippewa treaty of 1818, 7 Stat. 203. (Royce 111), crosses the river, is a wide stream which diminishes in width or size until it reaches Lansing, Michigan, from which place to its source it is a relatively small stream. Compared with its tributaries, the widest and most prominent section of the river is its western end extending easterly to near Ionia, Michigan, and is the main branch of the river. (Pet. Ex. 112 and Def. Ex. 55) The source of the Grand River was not known in 1821 to the Commissioners who negotiated the treaty of August 29, 1821.

(c) Three treaties were negotiated by defendant prior to the 1821 cession. Such treaties and the lines of each insofar as applicable here are as follows:

1. The Fort Meigs Treaty of September 29, 1817, 7 Stat. 160. The southern line of the 1821 cession strikes the west line of this cession (See Royce 83) and runs north to the northwest corner, thence east to its northeast corner.

This corner is referred to in the 1821 cession as "The termination of said line" and strikes the west line of the 1807 cession.

2. The treaty of November 17, 1807, 7 Stat. 105, is sometimes referred to as the Hull treaty; it ceded lands in southeast Michigan, the western boundary of which (see Royce 66) extends north of the 1817 cession and forms part of the eastern boundary of the 1819 cession.

3. By the treaty of September 24, 1819, 7 Stat. 203 (Royce 111), the Chippewa Indians ceded a large tract in Michigan, the south boundary of which starts on the west line of the 1807 cession (Royce 66) at a point six miles south of the Michigan Base Line, and extends west sixty miles, thence northeasterly to the head of Thunder Bay River, crossing the main branch of the Grand River about two miles west of Saranac, Michigan.

By the plain description of the boundaries of the 1821 cession, contained in Article I of that treaty and set forth in Finding 8 (a) above, the eastern part of that cession is limited to the west line of the 1807 cession from the northeast corner of the 1817 cession to a point six miles south of the Michigan Base Line, the south line of the 1819 cession, and the western line of said 1819 cession, from its southwest corner to the Grand River, as shown above.

10. Taking into consideration the physical features of the region and the boundaries of land cessions made prior to 1821, and applying the boundary description as set forth in Article 1 of the Treaty of August 29, 1821, (Finding 8 (a), to the lands covered by

such description, we find that by said treaty the Indian parties thereto, petitioners herein, ceded to defendant the lands within the following boundaries:

* * *Beginning at a point on the south bank of the river St. Joseph of Lake Michigan, near the Parc aux Vaches, due north from Run's Village, and running thence south to a line drawn due east from the southern extreme of Lake Michigan; then with said line east to the west line of the tract ceded by the Potawatomes to the United States by the Treaty of Fort Meigs in 1817 (7 Stat. 160); thence north on said line to the northwest corner of said tract, thence east along the northern line thereof to the northeast corner where it intersects the west line of the treaty cession of November 17, 1807, 7 Stat. 105; thence north on such west line to a point six miles south of the Michigan Base Line; thence west from that point on a line which is the south line of the territory ceded by the treaty of September 24, 1819, 7 Stat. 203, a distance of sixty miles; thence northeasterly on the western line of the 1819 cession to where such line crosses the main branch of the Grand river about two miles west of Saranac, Michigan; thence along the north bank of the Grand river to its mouth on Lake Michigan; thence following the shore of Lake Michigan southerly to the south bank of the said St. Joseph river, and thence with such south bank up said river to the place of beginning.

The area within the boundaries last described comprises 4,198,810 acres (Def. Ex. 64).

11. (a) Five separate tracts, each surrounding a named village within the area above described, were reserved by the Indians under Article 2 of the 1821 treaty. The Mang-ach-qua and Mich-ke-saw-be village tracts were each located on Coldwater river; the Prairie Ronde village tract was on the Dowagiac river, a tributary of the St. Joseph river, the Match-e-be-nash-she-wish village was on the Kalamazoo river near the present town of Kalamazoo, Michigan. Each of these reservations was ceded to the United States by "dispersed bands of the Potawatomi Tribe" in the Treaty of September 19, 1827, 7 Stat. 305. The

fifth reservation at the Notta-wa-se-pe village along the St. Joseph River was ceded to the United States by the Supplementary Articles to the Treaty of September 27, 1833, 7 Stat. 442, which were executed by Michigan Indians who had been invited to attend a council held at Chicago during September, 1827, which was called to procure from the United Nation of Chippewa, Ottawa, and Potawatomi Indians of Wisconsin a cession of lands lying on the western side of Lake Michigan. (Fdgs. 17-21, Dkt. 15-J, 4 I.C.C. 487-490)

These Michigan Indians are referred to in the 1833 Council Journal as "The Chiefs and headmen of the St. Joseph and Notta-wa-se-pe bands of the United Tribes of Potawatomes, Ottawas, and Chippewa". (Pot. Ex. 14, Dkt. 71-A and 15-J) 4 I.C.C. 487.

(b) The third article of the treaty of 1821 provided for a number of land grants to named individuals. The area conveyed by such grants and that included within the five reservations above referred to total 84,480 acres. (Def. Exs. 64, 65, Dkt. 146) The United States acquired by the treaty of August 29, 1821, a total of 4,114,330 acres.

12. (a) The areas occupied by the various bands or groups of Indians in the southern Michigan peninsula was not known to the Government or its representatives in 1821. Governor Cass commented on this fact when transmitting the treaty he had negotiated with the Chippewa Indians of Saginaw on September 24, 1819, 7 Stat. 203. His letter to the Secretary of War, dated September 30, 1819, reads in part:

The boundaries of the tract ceded may be easily traced upon any good map of the United States, but owing to our ignorance of the topography of the interior of this territory, it may be eventually found, when the lines are run, that the southeastern corner of the tract ceded is in the possession of the Grand River Indians. If so, there will be no difficulty and very little expense, in quieting their claims. (Def. Ex. 40, Dkt. 146)

(b) This situation is also evident from Mr. Sibley's comment when writing Governor Cass from Mackinac following his appointment as one of the 1821 treaty commissioners. Having contacted Mr. Godfroy, Sub-agent for the Potawatomi Indians, and Mr. Knaggs, Sub-agent for the Ottawa and Chippewa Indians (Def. Ex. 1, p. 195, Dkt. 146), Mr. Sibley wrote:

The natives who are the chief claimants are supposed to be the Potawatimies and Ottowas -- whether they can be induced to part with their whole interest is extremely doubtful -- * * *. Messrs Godfroy and Knaggs are I believe of opinion the Potawatimies will be disposed to part with their land provided they are well paid for it. What the Ottowas will do, is I think doubtful. (Pet. Ex. 90, Dkt. 146)

(c) During the council at Chicago in August, 1821, Governor Cass commented that the Potawatomi owned "all that country south of the Grand river to the headwaters of the Maumee and the Wabash", and in their official report to the Secretary of War on August 29, 1821, Messrs. Sibley and Cass wrote:

Your instructions directed us to treat for the extinction of Indian title within the Territory of Michigan, and if possible to procure a cession of all the aboriginal claims therein. But we soon found that so extensive a cession would be impracticable. The Indians who occupy the Northwestern Corner of the peninsula, extending from Thunder Bay to the mouth of Grand River,

and including the flourishing settlement of L'Arbre Croche did not attend the general Council. Although other portions of the same tribe were present, yet as they lived in different quarters of the Country no proposition for a country cession of this land could be made with them. The Indians of the same tribe are divided into various political communities, with separate interests and separate rights. The inhabitants of one village are unwilling to cede the land of another, and when distances are considerable, they feel rather as independent bodies, than as members of the same nation.
(Def. Ex. 63, Dkt. 146) Underscoring supplied.

13. The minutes of the treaty council are incomplete. The Secretary, Henry R. Schoolcraft, explained this when writing the Secretary of War on September 18, 1821:

It will be perceived that the proceedings do not bring the treaty to a close, or even settle the preliminary points. These points were adjusted with the Chiefs, after the council of the 23d of August, which was the last public conference between the Indians and the Commissioners, and consequently the last, of which I was required, in my official station, to preserve any record. (Def. Ex. 55, Dkt. 146; Pet. Ex. 19, Dkt. 29-K)

However, in an annual report as Acting Superintendent of Indian Affairs within Michigan during 1837, Schoolcraft identified the Indians signing the 1821 treaty as Ottawas and Pottawatomies of Michigan, south of Grand River, and referred to their relinquishment of their reservations in the subsequent treaty of 1833. (Pet. Ex. 102, Dkt. 146)

14. The incomplete council minutes and the treaty of 1821 disclose that the Potawatomi speakers who also signed the treaty were Me-ta-a, chief from the headwaters of the Wabash River who signed as Me-te-ay; To-pin-a-bee, who signed as To-pen-ne-bee and lived about the St. Joseph River (Def. Ex. 1, p. 193, Dkt. 146), and Congee who lived on the St. Joseph River and who signed as Kongee (Def. Ex. 50,

Art. 146) Other speakers were Ice-bansa and Otto-wa-kah, but the council minutes do not indicate where their homes were. Neither signed the treaty. Kee-way-goush-cam, first Chief of the Ottawa, living on the Grand River, signed as Kawagoushcum, and Me-ta-wa, a Chippewa chief from the "Prairies", executed the treaty as a Chippewa named Met-tay-waw. One Mitchell, referred to in the council minutes as a speaker for the Potawatomi, executed the treaty as an Ottawa Indian under the name of Mich-el.

In all, eight Ottawa Indians signed the treaty of 1821, three of whom are identified as residing along the Grand River, and one as living on the Kalamazoo River; two Chippewa signed the treaty, but the only one whose home is given is Me-ta-wa; of fifty-five Potawatomi Indians who signed the treaty the homes of only seven may be identified with any degree of satisfaction, and these were all along the St. Joseph River. (Def. Ex. 1, p. 196, 7 Stat. 218)

15. Traditionally the Michigan peninsula was occupied by Assegun of Bone Indians and Muschodesh or Mushcodainug (possibly the Mascouten) Indians. With the opening of historical times, about 1697, there were Ottawa Indians in the northwest part of the southern peninsula and Miami Indians were using the St. Joseph River as a summer home. It is uncertain what tribe, if any, inhabited the northeastern section of the southern peninsula. A few years later Skokokis or Mohecans from New England settled about the mouth of the St. Joseph and Shawnee Indians settled near the St. Joseph-Kankakee River portage south of the Indiana-Michigan State Line. The Iroquois soon caused a complete complete abandonment of

this country, but after the French Canadians built a fort at the St. Joseph-Kankakee portage in 1689, Miami, Huron, Fox, Mohecans and Potawatomi Indians settled nearby. Differences arising between them concerning their loyalties to the French, led these several tribes to abandon the area by 1712, with the Potawatomi going to settle about the French fort of Detroit, where they became known as the Potawatomi of the Huron.

The French reactivated their fort on the St. Joseph River in 1719 and, to secure their services as trappers and hunters, they persuaded Potawatomi Indians from the islands in Green Bay, Wisconsin, and some 400 to 500 Miami Indians from the Maumee and Wabash river valleys to settle on the St. Joseph River where they were soon joined by Sac, Kickapoo and Mascouten Indians, and much later, by a small group of Kaskaskia Indians from the Illinois river valley. After having been almost exterminated by surrounding tribes the Sac joined the Fox in the southwest; the Mascouten went to the Kankakee River country in 1763 (Trans. p. 250), and the Kickapoo, Kaskaskia and Miami gradually withdrew toward the south. Although the Miami chief, Little Turtle, claimed the southern portion of the southern peninsula as Miami territory during the Greenville treaty council in 1795 (Def. Ex. 40), the only documentary reference to the presence of Miami Indians within Royce 117 after 1760 is a 1779 reference to a few Miami Indians living at the mouth of the Elkhart River, where the Potawatomi Indians are known to have had a village. (Trans. P. 257)

16. Old documents originating during the period of English control of the southern Michigan peninsula and during the period of early United States sovereignty which began with the Treaty of Ghent in 1783, disclose that L'Arbre Croche was settled by Ottawa Indians from Michilimackinac in 1742 and was a flourishing Indian settlement until after 1721. The L'Arbre Croche Indians maintained summer homes and raised their corn crops there but hunted during the winter months far to the south. Gradually some began to summer along the Kalamazoo, Muskegon and Grand rivers, and to hunt south of Royce 117 in the area about Chicago. These southern Ottawa eventually became known as the Grand River Band of Ottawas and functioned as an autonomous group, independent of the L'Arbre Croche residents or the Michilimackinac settlement to the north. (Def. Ex. Dkt. 146)

This southern movement of the Ottawa is reflected by a number of documents. Frederick Hamburg wrote in his 1763 Journal that the L'Arbre Croche Ottawa wintered about the Grand and Kalamazoo rivers; John Coates, a clerk in the Indian Department at Michilimackinac which department had supervision of the Ottawa, included in his list of a "number of Indians Resorting to Michilimackinac" on September 10, 1782, 400 Ottawa men with families at L'Arbre Croche and 500 Ottawa men and families on the "Grand River & Banks of Lake Michigan", estimating their total number at 2,200 persons. (Def. Ex. 3, [1782, p. 635]) During 1790 Hugh Heward passed down the Grand River on his way to Lake Michigan and noted in his Journal that he passed two cabins of Ottawa Indians south of Cedar River and an Ottawa village at the mouth of Looking Glass River, met with a mixed Ottawa and Potawatomi band between those two places and reported passing two cabins of Chippewa Indians who had wintered near the mouth of Cedar River. (Def. Ex. 1, pp. 150-155, Dkt. 146) Both Cedar and Looking Glass Rivers are

outside Royce 117.

In 1779 one Samuel Robertson, a British pilot, found an Ottawa chief from L'Arbre Croche on the Muskogen River (Def. Ex. 1, p. 127); they were reported to claim the eastern shore of Lake Michigan south nearly to St. Joseph in 1786 (Def. Ex. 3, p. 485); in 1793 six canoe loads of trade goods were delivered to them on the Muskogen (Def. Ex. 1, p. 155), and Jedidiah Moore, having travelled through this country on behalf of the Secretary of War, reported in 1820 that the L'Arbre Croche Ottawa claimed all the country east of Lake Michigan from the Detour, 42 miles northwest of Mackinac, south to the mouth of the Black River which is about 25 miles north of the St. Joseph River. (Def. Ex. 1, p. 171, 191, Dkt. 146)

An official Indian census taken at Chicago in 1819 lists five Ottawa towns on the Kalamazoo River, six Ottawa towns on the Grand River, and located a small Potawatomi village near the mouth of the St. Joseph River. (Def. Ex. 1, p. 184, Dkt. 146) Reverend Isaac McCoy in 1822 found Ottawa villages on the Kalamazoo River (Def. Ex. 1, p. 193, Dkt. 146), and referred to that river as the boundary line between the Ottawa and Potawatomi Indians.

17. The Potawatomi Indians who had moved to the St. Joseph country in 1719, expended along that stream until in 1779 they had at least six villages along it. (Pet. Ex. 34, Dkt. 146). They hunted in the country south of Royce 117 and maintained friendly relations with the Potawatomi of the Huron to the east, and the Ottawa to the north, and during the 19th century had villages north of the

St. Joseph River. John Kinzie, an Indian trader at Chicago and on the St. Joseph River, on July 15, 1815, listed Chippewa, Potawatomi, Ottawa of L'Arbre Croche and Winnebago as the tribes "who inhabit the country between the southern extremity of Lake Michigan and Michilimackinac, and whose chief residence is upon Grand and Muskogean rivers". (Def. Ex. 51, Dkt. 146)

The Reverend Isaac McCoy, having been charged with the establishment of the blacksmith shop promised the Ottawas under Article 4 of the treaty of 1821, commented in his "History of Baptist Indian Missions":

In order, therefore, to secure a footing among them without delay, we proposed to commence with only the smithery, on the line between them and the Putawatomies * * *. (Page 206)

Within this month we erected a blacksmith's shop on the Kekenmazoo (Kalamazoo) among the Ottawas, * * *. (Page 214)

* * *On the following day we had a visit from the Ottawas, * * *. They also brought information that the Ottawas * * * had expressed a desire that we should locate the smithery on the Grand river, in a central and more eligible place. This was the effect we had hoped to produce when we put the smithery into operation upon their border * * *. (Page 227)

Our smithery for the Ottawas, as before stated, was on the line between the Putawatomies and Ottawas, * * * (Page 248) Pet. Ex. 56, Dkt. 146)

18. The most detailed report of the location of Ottawa and Potawatomi villages appears in a letter to Governor Ninian Edwards, written by an Indian trader, John Hayes, on May 31, 1812. He located Potawatomi villages: one on the St. Joseph River 25 miles above its mouth; the Terre Coupe village near the portage between the Kankakee and St. Joseph rivers; a village 100 miles up the St. Joseph at the mouth of Pivellée (Coldwater) River; a village on the Elkhart River 25 miles

above its mouth; and one at the mouth of the Kalamazoo River. Mr. Hayes also located an Ottawa and Potawatomi village on the Kalamazoo River 65 miles above its mouth and four Ottawa villages on the Grand River; 8; 37.63 and 100 miles above its mouth, respectively. The last site, he said was at the junction of the Grand and Riviere des Plains or Maple rivers. He located other Ottawa villages in the country immediately north of Royce 117, one near the Pierre Marquette River, one on White River and two on the Muskogon River. (Pet. Ex. 41, Dkt. 146).

19. There are very few documentary references to Chippewa Indians within the country near Royce 117, and none definitely identifies them as residents within it. An anonymous journalist in his "Journal of the Siege of Fort Detroit" noted under date of May 21, 1763, that:

Cekaas, great chief of the Saulteurs of Grand river had arrived, according to Pontiac's request, with one hundred and twenty men of his tribe. (Def. Ex. 5; Dkt. 146)

and that same year George Crogan listed among the Indians attending a council in Detroit three Chippewa chiefs and 49 warriors "from their different villages betwixt (Detroit) and St. Joseph". Def. Ex. 11, Dkt. 146) Two years later a trader of the Ohio-Mississippi region wrote that "part of the Chippewa and the Pouteatamies left Fort St. Josephs, in order to settle about the Illinois". (Def. Ex. 11, Dkt. 146). Several years later in 1778 another trader said that the Chippewa were on "the upper (northern) parts of Lake Michigan." (Def. Ex. 1, p. 253, Dkt. 146)

Official correspondence between Governor Henry Hamilton and General DePeyster, conducted during 1778, discloses that Short Ears (Ottawa) and Ganteaux (Chippewa) from Michilimackinac, wintered near or around the Grand River and later identifies the Chippewa more particularly as being "from Thunder Bay". (Def. Ex. 1, p. 119, 122).

Other references to Chippewa Indians on the Grand River fail to place them in relation to Royce 117, with the exception of the Heward Journal of 1790 which refers to two cabins of Chippewa wintering more than 25 miles northeast of Royce 117. (Fdg. 15, supra)

20. Three noted anthropologists testified during the trial of these consolidated dockets. The defendant introduced the testimony of Dr. Erminie Wheeler Voegelin, presently Professor of History at the University of Indiana, and a Director of the Ohio Valley-Great Lakes Research Project. Her detailed written report concerning Indian occupancy of Royce 117 was introduced as defendant's Exhibit No. 1, Docket 146, and the historical supporting documents are in evidence. The testimony of Dr. Anthony Wallace, Research Associate Professor in the Anthropology Department of the University of Pennsylvania, was presented by the Citizen Band of Potawatomi Indians, and the petitioners Chippewa and Ottawa tribes introduced the testimony of Dr. Omer C. Stewart, presently a Professor of Anthropology at the University of Colorado.

Dr. Voegelin testified that when the United States extended their sovereignty over this country in 1763 the Potawatomi were the only Indians residing along the St. Joseph River; that they maintained their

summer villages there and wintered and hunted south of Royce 117; that the Ottawa were then summering and raising corn at L'Arbre Croche but hunting along the Muskogean, Grand and Kalamazoo rivers. She stated the historical documents of this period refer to Saulteur or Chippewa Indians being about Saginaw Bay, and that reports of councils with the Ottawa and Potawatomi contain occasional references to an alliance between the three Indian groups.

From the accumulated data, the location of various villages, and the topography of the country, which gave the Saginaw Bay Chippewa easy access by way of the Maple River to Royce 117, Dr. Voegelin concluded that from 1783, when occupancy within Royce 117 became crystallized, to 1821, the Ottawa of Grand River and the Potawatomi of St. Joseph River were separate, autonomous units; that the Ottawa occupied and used the northern portion of Royce 117 and the Potawatomi occupied and used the southern portion (Trans. p. 270), with an intermixture in the central part. (Trans. pp. 280-4)

Dr. Wallace described the Potawatomi as an Algonquin Indian group which had been driven from Michigan early in the 17th century but returned between 1720 and 1760 and had obtained exclusive possession of the southern portion of Royce 117 by 1765. He located various Potawatomi villages within this area, one at the mouth of St. Joseph River, one on the St. Joseph near the present town of Niles, one on the Cass-Van Buren county line, one near Centerville in St. Joseph County, one in northwestern Hillsdale County, and one on the Kalamazoo River in Jackson County. The last two towns Dr. Wallace considered Potawatomi

Although he said some reference attributed them to a mixed Ottawa and Potawatomi gathering.

Dr. Wallace was undecided whether the Ottawa at L'Arbre Croche and the Grand River Ottawa were identical or separate groups. He believed the northern portion of Royce 117 was exclusively used and possessed by Ottawa Indians after 1750, and that Potawatomi Indians exclusively used and possessed the southern portion after 1765, although Chippewa from Saginaw Bay may have come as far southwest as Lansing, Michigan. Dr. Wallace believed it was uncertain what Indians used and occupied a doubtful area described as the northern parts of Kalamazoo and Calhoun counties, and the extreme northwest portion of Jackson County. (Trans. p. 73)

Dr. Stewart agreed generally with Dr. Wallace's occupational use areas within Royce 117. He said Ottawa and Potawatomi Indians had a stable political structure of the independent village type when the white man first came into this region. He testified the northernmost village of the Grand River Ottawa was believed to be in Oceana County, was not certain of its location, of the site of the "fort village" on the Grand River, Prairie Village and Gull Prairie Village, (Trans. p. 94) but located and identified as Ottawa eight village sites within Royce 117. He explained that his identification of village sites rested primarily upon Hingsdale's "Archeological History of Michigan" or the similarity between geographical hand names appearing upon the 1840 and 1854 annuity rolls, which he projected back 19 and 33 years, respectively, to the treaty date of 1821.

Relying upon Hinsdale's report, Dr. Stewart identified a village at the mouth of Grand River as Ottawa (Trans. p. 124) and by reference to Hinsdale and the annuity roll of 1854 he identified a village at Grand Rapids as Ottawa. (Trans. pp. 125, 127) His location of a site at the mouth of the Thornapple River rests upon the 1854 annuity roll; the location of one on Coldwater River was based upon Hinsdale but its identification as Ottawa rests upon the 1854 annuity roll and a report that in 1863 an Ottawa chief resided there. Two villages on the Thornapple River, one immediately west of the boundary line between Royce 117 and Royce 111, and one just east of that line, were identified as Ottawa from the 1840 and 1854 annuity rolls (Trans. pp. 126, 137-8). Dr. Stewart made an arbitrary cartographical location for these two villages which he testified might have actually been anywhere along the Thornapple River. A village which Hinsdale located in the general area of southeastern Ionia County and identified as mixed Ottawa and Chippewa, was pronounced Chippewa by Dr. Stewart although the annuity roll of 1854 indicates an Ottawa occupancy. While Dr. Stewart located this village within Royce 117 on his map of the area (Pet. Ex. 112, Dkt. 13-M), he testified it may have actually stood at any fork of the Thornapple River. (Trans. pp. 133-7)

21. On August 29, 1821, a group of Ottawa Indians known as the Grand River Band of Ottawa Indians resided in the southern Michigan peninsula about the Grand River. Said group or band was wholly separate and apart from other bands or groups of Ottawa Indians occupying

the country north of them, including the parent band at L'Arbre Croche, functioned as an autonomous, independent unit, separately using, occupying and possessing a definable area within Royce 117 as herein-after described.

22. The mixed groups of Potawatomi, Ottawa and Chippewa Indians residing within the area referred to herein as Royce 117, and described in Finding No. 10 hereinabove, were groups or villages of the St. Joseph Band of Potawatomi Indians who had affiliated or adopted members of Ottawa or Chippewa descent.

23. The evidence fails to establish the claim of the petitioners in Docket 13-M, James Strong, et al., that Saginaw, Swan Creek and Black River bands of Chippewa Indians, or either of them, on August 29, 1821, used or held and possessed an interest in the land identified as Royce 117 and described in Finding No. 10 hereinabove.

24. On August 29, 1821, the Grand River Band of Ottawa Indians exclusively used, occupied and possessed and had Indian title to a tract of land bounded on the south by the Kalamazoo River from its mouth on Lake Michigan to a point six miles south of the Michigan Base Line where it intersects the south line of the territory ceded by the treaty of September 24, 1819, 7 Stat. 203; thence west along said boundary line to a point sixty miles west of the Michigan Meridian, which point is the southwest corner of the territory ceded by said treaty of 1819; thence northeasterly along the western line of the 1819 cession to where such line crosses the main branch of the Grand River about two miles west of Saranac, Michigan; thence along

the north bank of the Grand River to its mouth on Lake Michigan; thence following the shore of Lake Michigan southerly to the point of beginning; and to a tract of land bounded by a line beginning at the source of the Kalamazoo River in Section 30, Township 4 South, Range 1 West of the Michigan Meridian, and running thence due east to its intersection with the west line of the treaty cession of November 17, 1807, 7 Stat. 105; thence north on such west line to a point six miles south of the Michigan Base Line; thence west from that point on a line which is the south line of the Territory ceded by the treaty of September 24, 1819, 7 Stat. 203, to the Kalamazoo River; thence up said river to its source, which is the place of beginning.

25. On August 29, 1821, the St. Joseph Band of Potawatomi Indians exclusively used, occupied, possessed and held Indian title to a tract of land bounded by a line commencing at a point on the St. Joseph River of Lake Michigan, near the Parc aux Vaches, due north of Rum's Village, and running thence south to a line drawn due east from the southern extreme of Lake Michigan; thence with said line east to the west line of the tract ceded by the Potawatomi to the United States by the Treaty of Fort Meigs in 1817, 7 Stat. 160; thence north on said line to the northwest corner of said tract; thence east along the northern line thereof to the northeast corner where it intersects the west line of the treaty cession of November 17, 1807, 7 Stat. 105; thence north on such west line to a point due east of the source of the Kalamazoo River in Section 30, Township 4 South, Range 1 West of the Michigan Meridian; and thence west on a straight

Line to the source of the Kalamazoo River; thence down said Kalamazoo River to the point of intersection with a line running east and west parallel to and six miles south of the Michigan Base Line; thence west along said east and west line to its intersection with the Kalamazoo River; thence down said Kalamazoo River to its mouth; thence southerly along the east shore of Lake Michigan to the mouth of the St. Joseph River; thence up the St. Joseph River, along the the south bank thereof, to the place of beginning.

26. The persons who are entitled to participate in any award which may be hereafter rendered in these consolidated dockets or either of them, are limited to those individuals who were members or whose ancestors were members of the Grand River Band of Ottawa Indians as described in Finding of Fact No. 21 herein, or the St. Joseph Band of Potawatomi Indians, as such memberships existed on August 29, 1821.

Chief Commissioner

Associate Commissioner

Associate Commissioner