



action, based upon these same cessions, are plead in Docket 18-E and the same relief is sought. The two dockets are consolidated for trial with the understanding that all evidence introduced in either action would apply with equal effect in the other.

The plaintiffs in Docket 58 are the Ottawa and Chippewa Indians in the State of Michigan, also known as the Ottawa and Chippewa Indians of Michigan, and individual members thereof. They sue on behalf of all the Ottawa and Chippewa Indians interested in the claims herein presented. The defendant admits that the ancestors of these Indians on March 28, 1836, held original Indian title to approximately 12,044,934 acres of land within Area 205 as outlined upon Royce's Map 1 of Michigan, Vol. 18, B.A.E., exclusive of prior cessions, reservations, and two tracts therein which are hereinafter referred to as Sub-areas "U" and "S".

The plaintiffs in Docket 18-E are the Keweenaw Bay Indian Community and former Chippewa Bands whose membership now comprise that Community, and Charles Picard and Edward Monguse, who are members of the Community; the Bay Mills Indian Community and individual Chippewa who are members of it, and the Sault Ste. Marie Band which comprises a part of the Bay Mills Indian Community. It is now conceded that the former Chippewa bands whose members comprise the Keweenaw Bay Indian Community resided west of the tracts here involved and had no interest in these lands. Accordingly the petition in Docket 18-E will be dismissed as to the Keweenaw Bay Indian Community, the L'Anse, Lac Vieus Desert and Ontonagon Bands of Chippewa Indians, Charles Picard and Edward Monguse, plaintiffs therein. Defendant challenges the right of the remaining plaintiffs in Docket 18-E to present either of the claims asserted, alleging that they sue "in a representative capacity in the name of the Bay Mills Indian

Community" and "not in behalf of the Ottawa and Chippewa Indians" who executed the two treaties involved.

The issues presently for determination are whether the plaintiffs in Docket 18-E have any standing before the Commission, and whether original title has been established by any of the parties plaintiff to Area 113, being the St. Martin Islands in Lake Huron, on the cession date of July 6, 1820, and as to Sub-areas "U" and "S" on their cession date of March 28, 1836. The second issue involves the further question of whether ownership, if found, existed solely by reason of use and occupancy or had been recognized, which recognition defendant denies. We shall first discuss the capacity and right of the plaintiffs in Docket 18-E to maintain this action.

It appears that in the 18th century a number of separate, autonomous bands or groups of Chippewa and Ottawa Indians resided within Area 205. Of the Algonquin linguistic stock, they spoke different but mutually intelligible languages. The two were intermarried, and some bands included both Ottawa and Chippewa Indians. By 1836 all of these Indians were recognized by the United States and by themselves as forming a tribal unit known as the Ottawa and Chippewa Indian Nations in the State of Michigan (42 Ct Cls. 240). The merger date is indefinite, but this tribe appears as plaintiff in Docket 58. It relies upon the Durant Roll of 1919 for identification of its membership and that roll, according to its title, is limited to Ottawa and Chippewa Indians, or their descendants, who were "on the roll of the Ottawa and Chippewa Tribe of Michigan in 1870, and living on March 4, 1907". The record does not disclose whether this 1870 roll included all of the Indians who may have had an interest in the two tracts of land here involved upon the dates of their cession. or all the successors of













