

## BEFORE THE INDIAN CLAIMS COMMISSION

THE CADDO TRIBE OF OKLAHOMA, ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Docket No. 226
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: January 22, 1960

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 12, heretofore made herein:

13. Earlier in this case the Commission decided that the plaintiffs herein, the Caddo Tribe of Oklahoma, et al., held Indian title to certain lands situated in northwestern Louisiana and the extreme southwest portion of Arkansas; and, that, on the effective date of the Treaty of July 1, 1825 (7 Stat. 470), the United States extinguished all of the plaintiffs' right, title, and interest to the said lands. The tract found to have belonged aboriginally to the Caddo Indians is described in Finding 12 of the Commission's earlier decision of March 8, 1956. Thereafter by the Commission's order of January 2, 1957, Finding 12 was amended to make more specific the bounded area described therein.

14. (a) A greater portion of the subject area is situated in Caddo Parish, Louisiana, and is bounded on the north by the Arkansas-Louisiana state line, on the west by the Louisiana-Texas state line,

on the east by the Red River, and on the south by Cypress Bayou, Wallace Lake, Wallace Bayou, Bayou Pierre, Alligator Bayou and Pascagoula Bayou. The smaller portion of the tract extends north into Miller County, Arkansas, as far as the Sulphur River, and is bounded on the west by the Arkansas-Texas state line, on the east by the Red River and on the south by the Arkansas-Louisiana state line.

(b) Both sections, as set out above, comprise one tract and bear similar topographical characteristics. In that portion of Miller County south of Sulphur River the elevation above sea level varies between 200 and 370 feet. In Caddo Parish the average elevation is about 180 feet above sea level. Numerous bayous and other minor streams lace the entire tract and all flow eventually into the Red River, which river affords the principal means of drainage for the entire region. Many lakes dot this region, and much of the bottom lands was subject to periodic inundation through heavy rainfall when the Red River and its tributaries would overflow. At the time of the Caddo cession there was little or no protection from the overflowing streams. Levee protection for lowlands did exist along the Mississippi River which lies considerably east of the Caddo country. It was not until 1892 that levees were constructed within Caddo Parish as to permit gainful cultivation of lowlands.

15. (a) Caddo Parish, Louisiana, was created by the state legislature on January 18, 1838, and may be divided physiographically into three categories: the Red River bottoms, the lake region which comprises the basins of Cross, Ferry, James, Clear, Soda and other smaller lakes, and, the uplands which are separated from the bottom lands and

the lake region by a low bluff line. Except for the northern part of the parish where it becomes frequently rough and hilly, the surface of the uplands is gently rolling. The upland soil is mostly an alluvial deposit containing a good deal of sand. It is more coarse than the valley soils. It is classified as one of the Norfolk, Orangeburg and Susquehanna series of "fine sand" or "fine sandy loam," and clay. The early settlers preferred this rolling upland area with its clear springs and timber. The valley soil, which proved more fertile, was topsoil washed down from the uplands and is classified within the Miller series of "Clay," "fine sandy loam," "fine sand" and "silt loam."

(b) Miller County, Arkansas, which is the extreme southwestern County of that State, was originally organized in 1820. At that time its area included considerable parts of Texas and the Indian Territory. The history of Miller County shows many territorial and jurisdictional changes from the time Arkansas was admitted to statehood in 1836, until 1874 when the present Miller County was organized with Texarkana as its county seat.

Four distinct types of soil are in evidence in Miller County. Two types are sandy loam, one is a loam, and one a clay. Of these types three are found on the flood plain of the Red River and Sulphur Fork, the other on the upland or hill section.

16. The total acreage for the subject lands as based on a computation of the township surveys in Caddo Parish and Miller County comprises 636,321.25 acres and may be broken down as follows:

That portion of Miller County, Arkansas, lying south and west of Sulphur River and Red River, north of the Louisiana state line and east the Texas state line:

Total Land Area -	90,160.59 acres
Total Water Area -	<u>1,347.65 acres</u>
Total	91,508.24 acres

That portion of Caddo Parish as set out in the Commission's Finding 12 as amended by the Commission's order of January 2, 1957:

Total Land Area -	483,958.07 acres
Total Water Area -	<u>60,854.94 acres</u>
Total	544,813.01 acres

Breaking down the total area even further the subject lands may be divided as follows:

Land area not subject to overflow -	516,707 acres
Land subject to overflow -	57,412 acres
Water Area -	<u>62,202 acres</u>
Total	636,321 acres

From the total acreage it is necessary to subtract the two tracts comprising the Francois Grappe claim of 17,713.6 acres and the Larkin Edwards claim of 640 acres. Both tracts were reserved under articles supplementary to the 1835 Caddo Treaty, the United States having at the same time relinquished any interest it may have had in these lands. Therefore, the net acreage, consisting of uplands, lowlands and water acreage to be valued as of January 26, 1836, the effective date of the 1835 Caddo Treaty, is 617,967.4 acres.

17. Climatically, the winters are cool for this area and the summers only relatively warm. Rainfall averages slightly more than 45 inches annually. The average length of the growing season is 254 days with the first killing frost beginning around the second week in November and the last date ending in the first week of March.

Population:

18. (a) In 1604 New Orleans was the largest city in Louisiana with an estimated population of just over 8,000, while that of the entire territory approximated 50,000. In 1810 it was slightly more than 76,000. Louisiana attained statehood on April 12, 1812, and the United States census in 1820 placed the population of Louisiana at 153,407. New Orleans inhabitants numbered more than 41,000. In 1830 the population of Louisiana reached 215,000 and 352,000 in 1840.

The earliest Caddo Parish population figures are reflected in the 1840 United States Census reports which show free white males numbering 1416 and free white females numbering 988 for a total population of 2414. The Caddo Parish slave population in 1840 totaled 2837.

(b) At the time of the Caddo cession the Arkansas territory was thinly settled. In 1820 the total population was just over 14,000. By 1830 it had reached 30,000, and in 1840, four years after statehood, the United States census figures show a total population of 97,574.

Transportation and Accessibility

19. Due to the numerous lakes, rivers and bayous throughout north-west Louisiana and within the Caddo lands, which for the most part were navigable only by canoes and flatboats, water travel between different points predominated. Prior to 1835 the Indian villages were located on river banks and lake shores. Indian trails and other overland routes were relatively few and little known. Notes taken by surveyors in conducting early Government surveys of the Caddo cession show a "Road to the Caddo Agency," an old Indian trail from Caddo Prairie to the

Coushatta Indian village, and the "Shreveport Road," which was the road due west to Texas passing south of Cross Lake.

20. Prior to the Caddo cession, and before Shreveport was founded in 1837, the Red River was freely navigable above the old town of Natchitoches as far as the mouth of Loggy Bayou. From that point on a continued passage could only be accomplished by using various connecting bayous and streams in order to by-pass the raft infested channel. The "Great Raft" of the Red River is one of the most extensive examples of a natural log jam in any river. It owed its existence solely through the peculiar characteristics of the Red River. The Red River channel is composed principally of rock free alluvial deposits of rich loamy soil, easily moved and carried along by normal flow of the river. The river thus was contained within fragile banks which, when the river was subject to sudden and excessive rises through heavy rainfall, would disintegrate and cave in. Trees lining the banks would be carried into the stream, and, when this flow of floating trees became lodged upon some impediment, the accumulation of floating drift would back up and grow rapidly in length, breadth, and depth. The density of the accumulated debris and drift was so heavy at times that the whole mass would in turn support new growth of vegetation. The raft was in fact a series of rafts with open water between the accumulations. It extended in length some one hundred fifty miles up the Red River.

Besides creating a formidable obstacle to free navigation of the upper Red River, the raft greatly diminished the rate of flow of the river, and thus increased the rate of alluvial deposits upon the floor

of the river channel. This ultimately raised the bed of the river and greatly impeded the amount of water drainage into it. More water was being diverted into the smaller streams and bayous, causing them to back up, overflow and create new lakes. More and more land was being subjected to overflow, particularly during flood stages.

With the increase in the number of steamboats complete removal of the raft was imperative in order to achieve free navigation of the upper Red River. Steamboats in 1820 had gone as far up as Natchitoches, which is considerably south of the Caddo cession. Captain Henry Miller Shreve, a legendary figure in the founding and early development of Shreveport, undertook the prodigious task of removing this immense obstacle. According to early reports he removed seventy-one miles of the raft in the first year which brought him up opposite the Caddo Agency within the subject lands. Although he estimated there still remained at least seventy miles more to clear it took him five years in all to complete the job.

While for all intent and purposes the Red River was then open for navigation, the persistent regrowth of parts of the raft continued to intermittently block the channel until its final and complete removal, and the conditions that created it, was accomplished in 1878.

21. In 1836 there were no railroads west of the Mississippi River, nor any immediate prospects of railroads being built there. The first railroad west of the Alleghenies was constructed in 1831 between New Orleans and Milneburg, a small village on Lake Pontchartrain. It ran a distance of five miles and carried both freight and passengers. The first railroad west of the Mississippi was constructed in 1838. It was a privately owned plantation railroad and ran for approximately 21 miles.

Natural Resources

22. The upland areas of the subject lands originally contained pine timber and hardwoods along the bayous, streams, and lakes. In the swamp areas could be found cypress, cottonwood and willows. While there may have been a market for lumber at New Orleans in 1836, the timber areas of the subject lands were economically inaccessible. The Red River was closed by the great raft and other methods and means of moving merchantable lumber overland had not been developed. The evidence points substantially to the fact that there was no market in 1836 or in the near future for the timber within the subject area, and a hypothetical purchaser well acquainted with all the facts would give little or no value for timber in buying lands within the subject area.

23. As of the effective date of the Caddo cession there was no mineral development within the subject area, nor were there any immediate prospects of such development. Therefore, mineral resources were of no economic value as of 1836 and play no part in arriving at a proper valuation of the Caddo lands.

Agriculture

24. As the Commission has indicated in its earlier findings, the Caddo Indians were sedentary agriculturists who showed remarkable ability to cultivate and grow within the adjacent village areas extensive fields of crops comprising chiefly corn, maize, and pumpkins. These village garden spots would be worked until exhausted, and then new areas would be selected and put into cultivation.

After the Caddo cession, and after the white man had taken possession of the Caddo lands, cotton became the staple crop. While some corn and



potatoes were grown for home and local consumption, generally production was not sufficient to satisfy the ordinary demands.

As late as 1907, over seventy years after the Caddo cession, a Department of Agriculture report on the soil conditions of Caddo Parish, Louisiana, points out that while cotton is still the staple crop it is grown under a "one crop system" whereby cultivation of the crop is continued year in and year out until the soil is exhausted. When this finally occurs new areas are cleared and put under cultivation. In addition it is noted that (besides cotton), corn, potatoes and vegetables and forest products are the principal items produced; that agricultural methods employed as of 1907 were those used prior to the Civil War; that tenants do the bulk of the farming, and that farm labor, which is made up for the most part of colored workers, is a serious problem.

According to the same 1907 report, out of a total of 528,000 acres of land in Caddo Parish, only 180,000 acres are improved farm lands. This leaves about 66% of the parish in uncleared lands as of this late date. (Pl. Ex. 209).

25. Considering the topographical, soil and climatic conditions relative to the ceded area, the highest and best use for these lands in 1836 is for agricultural purposes incident to subsistence homesteading. When the inadequate transportation facilities both overland and by water are coupled with the lack of adequate means of flood control, there is no immediate prospect of any extended commercial use of the Caddo lands as of the date of valuation either by the cultivation of cotton or the cutting of timber. Any prospect of such a use would be projected too

far into the future to be an important factor in influencing the then 1836 market value of this area.

#### Public Lands

26. Shortly before the Caddo cession the United States had extinguished Indian title to several large areas within close proximity of the subject lands. Under the treaty of November 10, 1803, the Great and Little Osage in Arkansas had ceded a large area north of the Arkansas River (Royce Cession 67), while on August 24, 1818, and again on November 15, 1824, the Quapaw relinquished their title to a vast area south of the Arkansas River and extending down into Louisiana (Royce Cessions 94, 121). In 1825 the Choctaws ceded back to the United States their lands in Arkansas which had been granted to them under the Treaty of October 18, 1820 (Royce Cession 122, 7 Stat. 234), and on May 6, 1828, the Cherokee Nation of Indians ceded their lands in Arkansas to the United States. As of the effective date of the Caddo cession, Indian title to all lands in Arkansas had been extinguished, and within a relatively short period of time a vast landed area had now been annexed to the public domain subject to sale and disposition under the Government's prevailing public land policies.

27. With the accumulation of huge areas of public lands the Government tried various methods for disposing of them. Between 1781 and 1853, well over a billion acres had been added to the public domain, which acreage included among other things, the western cessions by those states east of the Alleghenies, the Louisiana territory, the Oregon territory, and the public lands in California. Rights of preemption had been recognized as early as 1801, and within the next forty years some sixteen separate

preemption acts were passed by Congress. Preemption was a premium offered to those who would actually till the soil and construct homes upon the land. By 1834 the minimum subdivision offered for sale or entry had been reduced to 40 acre parcels at \$1.25 per acre. In the early 1800's the Government's policy behind disposition of public lands was one of sales for revenue, but shortly thereafter it changed to a plan of disposition for homes and settlement purposes. This change in policy plus some competitive sales of state lands, which were going at prices ranging from seventeen cents to sixty cents per acre, kept the minimum statutory price for federal public lands at \$1.25 per acre. In addition, there was the change from strictly cash land sales in 1806 to credit sales, with additional relief being granted to purchasers on other occasions in the form of time extensions on the purchase money due.

28. Within the four year period of 1834 through 1837 over forty-two million acres of public lands were sold, the sales peak being reached in 1836 when twenty million acres of land were transferred to private ownership. The price paid per acre for the total acreage sold was slightly more than \$1.26 per acre. From 1785 to as late as 1880 the United States had sold agricultural lands at rates of  $12\frac{1}{2}$ , 25, 50,  $66\frac{2}{3}$  and 75 cents, and at \$1.00, \$1.25 and \$2.50 per acre. A huge area containing coal and millions of acres of timber land have been sold by the cash sale and preemption acts at the above rates.

29. Other methods utilized by the government in disposing of public lands included land bounties to those individuals who had experienced military service, educational land grants to the states, and other

miscellaneous donations and grants as well as special private sales. While efforts were made as early as 1826 to enact legislation granting to the states worthless public lands located in swamps or subject to periodic overflow, it was not until 1849 that Congress enacted such legislation peculiarly applicable to Louisiana. By an act of Congress there was granted to Louisiana as a reclamation project "the whole of those swamps and (9 Stat. 352, Ch. 87) overflowed lands which may be, or are found unfit for cultivation." In the following year, Congress by statute extended the grant to Arkansas for similar purposes (9 Stat. 519, Ch. 84).

30. Federal land sales within Caddo Parish and in neighboring Bossier and De Soto Parishes during the years 1839 to 1845 indicate a firm minimum average price of \$1.25 per acre for tracts as small as a single acre to those of over 600 acres. Out of more than 300 federal sales placed in the record amounting to just over 67,000 acres, only 28 were sold for better than the minimum price per acre (Pl. Ex. 69).

31. As of the effective date of the 1835 Caddo treaty there were no sales comparable in size, location and character of the subject tract. In lieu thereof the plaintiffs have introduced computations and lists of private and public land sales within and without the subject area in Miller County, Arkansas, and in Caddo Parish, Louisiana.

(a) Plaintiffs' exhibit 66 is a calculation of selected sales from every 10th page of an abstract of the private land transactions taken off the records in Caddo parish for the years 1838 to 1850. According to the plaintiffs the 82 sales shown on the exhibit amount to 31,215.21

acres which were sold for a total consideration of \$310,705.36 or at an average of \$9.95 per acre. The Commission finds from an examination of the transactions that the resultant price of \$9.95 per acre does not actually reflect the fair market price of these lands as unimproved property. Merely removing only those sales showing a per acre price of \$10 or more (there being 19 such sales) the total acreage is reduced by one-third and the total consideration by over two-thirds. The remaining sales which are valued at \$10 an acre or less average out to \$3.39 over this same period.

Of the 19 high priced sales (those over \$10 per acre) over half are obviously sales of improved property or town sites or are sales which include personalty such as slaves, farm equipment, crops, etc. When all 82 sales are plotted on a map by township and range (Pl. Ex. 204) the majority are situated within the urban influence of the existing towns of Shreveport or Greenwood, Louisiana. The marked appreciation in land values within these areas is even more pronounced in those sales recorded after 1840.

(b) Plaintiffs' exhibit 66-A is a tabulation of all the sales in the aforementioned abstract of the Caddo land records for the years 1845-50. This tabulation purports to show that during this period some 239,719.44 acres of land changed hands at an average price of \$7.14. Only the bare statement of the witness who prepared the exhibit that he selected only what he thought were sales of unimproved land can attest to its efficacy. However, all those sales in the aforementioned Plaintiffs' exhibit 66 are included in the tabulation. The Commission finds, therefore, that this exhibit can hardly qualify as a tabulation of unimproved sales within Caddo Parish or that

the dates show values as of the treaty date of 1835 or 1836.

(c) Plaintiffs' exhibit 67 is an abstracted list of 180 private and public land sales for the years 1835 to 1840 in Caddo, Bossier, and Red River parishes, Louisiana. Despite plaintiffs' claim the only two of the listed sales involved improved property, at least 20 sales plainly show improvements or include sales of personalty. Over 130 of the private sales are duplicated in Plaintiffs' exhibit 197 which is a more comprehensive list of land transactions and is discussed hereafter. There are 25 public land sales as high as \$9.00 per acre, mostly within the vicinity of the towns of Greenwood and Shreveport and also 14 sheriff sales in execution of judgment, several of which involved improvements and chattels.

(d) Plaintiffs' exhibit 68 is a compilation of private and public land sales in Lafayette County, Arkansas, between 1835 and 1840. Only 59 sales are listed amounting to 9,567.51 acres at a total price of \$101,339.10 or at an average price of \$10.58 per acre. One sale of five individual tracts totaling 440 acres went for \$30,000 or almost \$70 per acre which places considerable doubt on the unimproved status of these lands being that this one sale alone accounts for 30% of the total consideration involving all sales, but less than 5% of the total acreage. As far as could be determined all sales listed are east of the Red River in Arkansas are located upon the lands which were ceded by the Quapaw Nation on August 24, 1818. These lands were surveyed between 1819 and 1823 (Pl. Ex. 200) and have been on the open market for at least 16 years prior to the Caddo cession. The earliest government township surveys in that portion of the Caddo cession in Arkansas (west of the Red

River) were not completed until 1840, five years after the Caddo treaty.

31. Plaintiffs have placed a good deal of emphasis on the contemporary treaty statements of the legendary "Davy" Crockett and Captain Henry Shreve, as throwing considerable light on the then value of Caddo lands.

Davy Crockett reputedly expressed a desire "to settle on Bodark or Choctaw Bayou of Red River that I have no doubt is the richest country in the world, good land and plenty of timber and the best springs and good mill streams, good range, clear water, and every appearance of health, game plenty." (Pl. Ex. 164). "Bodark" or "Bois D'arc creek can be located in what is now Fannin County, Texas, and flows northward just east of Bonham entering the Red River near the Fannin-Lamar county line. Farther west in Grayson County, Texas, is the "Choctaw" Bayou or creek, which flows northward east of Sherman and Denison and enters the Red River near the Grayson-Fannin county line. Davy Crockett therefore had in mind an area situated almost 130 miles due west of the Caddo tract.

In 1834, Henry Shreve, while engaged in removing the Great Raft from the Red River was requested by the Commissioner of Indian Affairs to submit an estimate of the quantity and value of the lands in the Caddo country "which will be reclaimed by the removal of the obstructions in Red River." Shreve estimated that the reclaimed area would consist of a tract of alluvial bottom land approximately  $2\frac{1}{2}$  miles wide and some 45 miles long stretching from Coates Bluff southward between the high ground and Red River. It would contain approximately 71,880 acres and its "probable value will be about an average of 4 dollars per acre." (Pl. Ex. 13a). While Shreve's estimate is a projected valuation, this

reclaimed land did in fact become one of the most valuable sections in the Caddo tract. It encompassed the entire Shreveport district besides extending southward for some distance and doubtless referred to sales in small tracts.

32. (a) Mr. John William Trygg, a former employce of the United States Forest Service appeared as a witness for the plaintiffs on the question of value. According to Mr. Trygg, in addition to making a personal inspection of the Caddo tract, he examined, analyzed and considered all pertinent historical data, public records such as original survey maps and the accompanying field notes of the surveyors, soil classification and agriculture reports, as well as general economic data. He topographically divided the area into three general classifications: the valley lands, the small stream lands, and the uplands. He testified that as of the date of the valuation the highest and best use of the Caddo tract was for agricultural purposes. He gave no special significance to the size of Caddo tract as contrasted with the sale of small parcels of land in weighing his valuation figure. It was Mr. Trygg's opinion that in 1835 the Caddo tract had a fair market value of \$2.50 per acre.

(b) Mr. Trygg's attempted valuation of the standing timber on the subject lands as of 1835 was rejected by the Commission as not supported by satisfactory evidence (Tr. p. 1340). In like manner the Commission rejected Mr. Trygg's computations which resulted in his \$2.50 per acre estimate of the fair market value of the Caddo tract (Tr. p. 1422).

(c) In reaching his valuation figure Mr. Trygg relied primarily upon plaintiffs' exhibit 197, which document was admitted in evidence as



a resume of over 400 private real estate transactions as recorded in Caddo parish, Louisiana, and Miller County, Arkansas (Tr. 1400). The majority of these transactions average 160 acres and were located both within and without the subject tract. Those sales abstracted from Caddo Parish cover the period from 1838 through 1845, and in Miller County they begin in 1834 and extend through 1862. These transactions, as set out in plaintiffs' exhibit 197, are in fact a collection of dissimilar sales involving both improved and unimproved property, quitclaim sales, sales in fee, sales of preemption rights, mortgages, and land floats. In addition there are listed innumerable sales of land for which the stated consideration included the purchase of such personal property as farm equipment, machinery, livestock, and slaves. The deductions applied by witness Trygg in order to reduce these various transactions to a common denominator as would represent as nearly as possible the sale of unimproved lands, were for the most part speculative and arbitrary and not supported by the evidence in the record. A flat 15% deduction for improvements on all property was given since the nature and extent of many of the improvements were impossible to determine. In sales involving personalty and "slaves", an unknown deduction was applied.

33. Plaintiffs also offered as an expert witness on value, Dr. Garnie William McGinty, a professor and historian. However the Commission ruled that Dr. McGinty was not qualified to render an expert opinion on the value of the Caddo tract (Tr. 1189-1190). As shown in his report Dr. McGinty's principal approach to valuing the Caddo tract involved what he designated as a "value in use." By this method the witness

sought to impute an 1833 value to the subject lands by the determining of the "yield of cotton per acre" which those lands would have produced. (Pl. Ex. 195). The Commission has on prior occasions rejected somewhat similar theoretical and injudicious methods as too speculative and conjectural. See The Nooksack Tribe v. United States, 6 Ind. Cl. Comm. 578; The Muckleshoot Tribe v. United States, 6 Ind. Cl. Comm. 600; The Duwamish Tribe of Indians v. United States, 7 Ind. Cl. Comm. 725.

34. Mr. J. Burrows Johnson, a qualified appraiser of New Orleans, Louisiana, testified as an expert witness for the defendant. Mr. Johnson prepared a detailed written valuation report (Def. Ex. 141) which contained an abundance of material covering both the subject area within Caddo Parish and that portion situated in Miller County. Mr. Johnson adopted the market data approach as his method of arriving at the fair market value of the Caddo tract. He concluded an examination of over one thousand land sales within the tract and the adjacent area as were recorded in the period of 1830-1840. Besides examining the land records in neighboring counties and parishes, defendant's appraiser personally inspected the entire area. Mr. Johnson limited his final compilation of sales to a four year period between 1833 and 1837 and included only sales of 640 acres or more. As shown in his report, sales of land within the four year period of 1833-1837 involving 640 acres or more indicate that 71 per cent retailed at \$1.00 per acre or less. Besides viewing the purchase of the entire Caddo tract as one complete sale, Mr. Johnson considered many other important factors in evaluating the subject lands, such as its accessibility, transportation facilities, population, the

demand for available lands both public and private, prevailing interest rates, taxes, markets, investments, cost of surveys, organizations and promotional expenses, and a reasonable return on the purchaser's investment.

As of the date of valuation Mr. Johnson placed no value on the lands as income property. He found no improvements thereon of a permanent nature, and concluded generally that the highest and best use of the land would be for colonization purposes with the entire tract being disposed over a period of twenty years.

35. Upon the findings of fact made herein and upon the entire record, the Commission finds that the Caddo tract, having a net acreage of 617,967.4 acres had a fair market value as of January 26, 1836, the effective date of the 1835 Caddo Treaty, of \$463,475.55, or at an average rate of \$0.75 per acre.

36. The Commission further finds that the amount of \$80,000.00, which is the stated consideration under Article III of the 1835 treaty to be paid for the ceded lands represents a payment of approximately \$0.13 per acre, and as such was an unconscionable consideration under the provisions of the Indian Claims Commission Act.

EDGAR E. WITT  
Chief Commissioner

WM. M. HOLT  
Associate Commissioner

\*Commissioner Watkins took no part in the consideration or decision in this case.