

BEFORE THE INDIAN CLAIMS COMMISSION

THE SENECA NATION OF INDIANS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 342-H
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: August 30, 1963

FINDINGS OF FACT

The Commission makes the following Findings of Fact:

1. The petitioner, The Seneca Nation of Indians, is an identifiable group of American Indians residing within the territorial limits of the United States within the meaning of section 2 of the Indian Claims Commission Act and as such has the right to bring and maintain this action.

2. A treaty of peace between England and the United States, marking the end of the Revolutionary War, was concluded at Paris on September 3, 1783.

The Seneca Nation was among the Indian tribes who had joined the British in the Revolutionary War and fought against the United States. However, the peace treaty between the United States and Great Britain made no provision for Britain's Indian allies, and it became desirable for the United States to make separate peace treaties with them.

On October 15, 1783, the Continental Congress authorized a convention to be held with the Indians who had taken up arms against the

United States. The Resolution authorizing the peace treaties provided as follows:

\* \* \* the preceding measures of Congress relative to Indian affairs, shall not be construed to affect the territorial claims of any of the States, or their legislative rights within their respective limits \* \* \*

Consequently, the United States entered into a peace treaty with the New York tribes known as the Six Nations, one of which was the Seneca Nation. This treaty was called the Treaty of Fort Stanwix, and took place October 22, 1784 (7 Stat. 15). This treaty established the western boundary of the lands of the Six Nations and left the subject lands in the area inhabited by the Six Nations. The Six Nations remained at peace with the United States until 1794.

During this interim period the State of Pennsylvania made efforts to establish a town on the present site of Erie, Pennsylvania. The British Governor of Canada, thinking that his ambition to establish a buffer Indian state was being threatened by these efforts, did everything possible to influence the Six Nations against the establishment of the new town. As a result the President ordered the American settlement at Presque Isle suspended, fearing that it might provide provocation to the Indians to join the northwest frontier Indian tribes against whom General Anthony Wayne was then bitterly engaged.

After a preliminary meeting between the Americans and the Six Nations held at Buffalo Creek the United States decided to hold a treaty with them "for the purpose of amicably removing all causes of misunderstanding and establishing permanent peace and friendship between the United

States and the Six Nations." (Def. Fdg. 16) The treaty was subsequently entered into at Canadaigua, New York, November 11, 1794 (7 Stat. 44).

Article III of this treaty delineates the boundaries within which the Senecas had possessory rights. The United States acknowledged the right of the Seneca Nation to these lands which had been obtained as a result of treaties with the State of New York and agreed that "it shall remain theirs, until they choose to sell the same to the people of the U.S. who have the right to purchase." (7 Stat. 45) All of the said lands as so defined were, and still are, within the boundaries of the State of New York. The subject lands are included within these boundaries. However, this was a treaty of amity rather than a treaty of cession.

3. Prior to 1786 most of what is now western and central New York was claimed by the states of Massachusetts and New York under conflicting grants from the Crown of England. However, on December 16, 1786, an agreement was reached between the two states settling the dispute. This agreement, which became known as the Hartford Compact, provided that Massachusetts would relinquish its claim to sovereignty over the entire area in which the subject lands lay. New York, in return, ceded to Massachusetts the right of pre-emption (and all other rights of property subject to the occupancy of the soil by the native Indians.) This right of pre-emption referred to in the Compact was the right to purchase or extinguish Indian title.

4. After the adoption of the Constitution, the Congress enacted a statute to regulate trade and intercourse with Indian tribes which provided as follows (Act of July 22, 1790, Sec. 4, 1 Stat. 137, 138):

\* \* \* no sale of lands made by any Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to any state, whether having the right of pre-emption to such lands or not, unless the same shall be made and duly executed at some public treaty, held under the authority of the United States.

This provision was amended and superseded by the Act of March 1, 1793, Sec. 8, 1 Stat. 329, 330, which in turn was superseded by the Act of May 19, 1796, Sec. 12, 1 Stat. 469, 472. Section 12 of the 1796 Act (which was the same as Section 8 of the 1793 Act, with the exception of minor and inconsequential changes) provided:

That no purchase, grant, lease or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation or tribe of Indians, within the bounds of the United States, shall be of any validity, in law or equity, unless the same be made by treaty, or convention, entered into pursuant to the constitution: and it shall be a misdemeanor in any person, not employed under the authority of the United States, to negotiate such treaty or convention directly or indirectly, to treat with any such Indian nation, or tribe of Indians, for the title or purchase of any lands by them held, or claimed, punishable by fine not exceeding one thousand dollars, and imprisonment not exceeding twelve months: Provided nevertheless, that it shall be lawful for the agent or agents of any state, who may be present at any treaty held with Indians, under the authority of the United States, in the presence, and with the approbation of the commissioner or commissioners of the United States, appointed to hold same, to propose to, and adjust with the Indians, the compensation to be made, for their claims to lands within such state, which shall be extinguished by the treaty.

The foregoing provision has continued in effect until the present day. (Act of March 3, 1799, Sec. 12, 1 Stat. 743, 746; Act of March 30, 1802, Sec. 12, 2 Stat. 139, 143; Act of June 30, 1834, Sec. 12, 4 stat. 729, 730; R.S. 2116, 25 U.S.C. 177)

5. On September 15, 1797, the Seneca Nation of Indians with the sanction of the United States entered into an agreement with Robert Morris













