

BEFORE THE INDIAN CLAIMS COMMISSION

MINNESOTA CHIPPEWA TRIBE, WHITE EARTH)
 BAND, LEECH LAKE BAND, MILLE LAC BAND,)
 ED WILSON, JAMES DAVIS, JOHN CORBOW,)
 WILLIAM MORELL, HAROLD EMERSON, JOSEPH)
 MORRISON, OLE SAM, MONROE SKINAWAY,)
 EUGENE REYNOLDS, FRANK LA ROSE, JOSEPH)
 MONROE, ARCHIE LIBBY AND JOHN SQUIRREL,)
)
 Plaintiffs,)
)
 vs.)
)
 UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 18-B

Decided: February 5, 1964

Appearances:

Jay H. Hoag, with whom were
 Marvin J. Sonosky and John S.
 White, Attorneys for Plaintiffs

Sim T. Carman, with whom was
 Mr. Assistant Attorney General,
 Ramsey Clark,
 Attorneys for Defendant

O P I N I O N

Holt, Associate Commissioner, delivered the opinion of the Commission.

On June 28, 1960, this Commission entered findings of fact, an opinion, and an interlocutory order in the subject matter. In that decision we determined that within the claimed area (Royce area 357 in Minnesota) there were, in aboriginal times, two separate, distinct land using entities, each of which held Indian title to a separate and distinct area of land. Those two divisions or bands were (a) the

Mississippi bands and (b) the Pillager and Lake Winnibigoshish bands. In our finding of fact number 48 we set forth the area (in the eastern part of the claimed tract) which we found had been exclusively used and occupied in aboriginal times by the Mississippi bands. In our finding of fact number 49 we set forth the area (in the western part of the claimed tract) which we found had been used and occupied in aboriginal times by the other land owning entity, namely the Pillager and Lake Winnibigoshish bands. Upon a determination that neither the Mississippi bands nor the Pillager and Lake Winnibigoshish bands had exclusively used and occupied the remainder of the claimed area, we found that neither of the two land using entities had held original Indian title to the remaining areas. The Commission further found that the defendant had not granted a "recognized title" in either the Mississippi bands or the Pillager and Lake Winnibigoshish bands. The areas which were excluded were two segments of land on the east and the north of Royce area 357, and those two segments of land have subsequently been referred to as "excluded segment A" (the eastern portion) and "excluded segment B" (the northern portion).

The decision of the Commission was appealed on several grounds by petitioner. The Court of Claims, in its decision of April 5, 1963, (Appeal No. 11-61) held that:

The interlocutory order of the Commission is reversed insofar as it determines that the Indians did not have sufficient ownership and title to the two "excluded segments" of Area 357; is modified as indicated in this opinion with respect to those on behalf of whom the Minnesota Chippewa Tribe and the other appellants appear in this proceeding; and is vacated without prejudice, as indicated in this opinion, with respect to the determination

that the Mississippi bands and the Pillager and Lake Winnibigoshish bands held title to separate and distinct areas of land as specified by the Commission. The case is remanded for further proceedings consistent with this opinion.

In compliance with the decision of the Court of Claims the Commission must make certain amendments to the findings and order entered in this case. First, with respect to the parties to this action, the Court has determined that it was error to include the word "descendants" in identifying that group of Indians entitled to be represented in the matter of the claims presented in this case. To conform with the mandate of the Court of Claims we shall amend our finding of fact number 1 to describe only those bands of Chippewas who were parties to the 1855 Treaty without reference to "descendants." Similarly, our finding of fact number 2 will be amended to delete the reference to "descendants."

The Court of Claims having determined that the defendant had granted recognized title to the two excluded segments, we must delete our finding of fact number 47 and enter a proper finding reflecting such recognition. We are confronted with the question "In whom did the United States recognize title to the excluded segments?" The granting of the recognized title was not found by the Court of Claims to have occurred by any single Congressional action. The Court held that from a "sequence of Treaty materials, extending from 1825 to 1855, we draw the conclusion that at least by 1855 the United States had recognized the Chippewas' title to the two segments of Area 357 excluded by the Commission from Chippewa ownership" (Slip Opinion, p. 7). The treaty materials referred to included the treaties of August 19, 1825; August 5, 1826; August 11, 1827;

