

BEFORE THE INDIAN CLAIMS COMMISSION

THE SIOUX TRIBE OF INDIANS, ET AL,)	Docket No. 74
)	
THREE AFFILIATED TRIBES OF THE)	Docket Nos. 350-B and
FORT BERTHOLD RESERVATION,)	350-C
)	
THE YANKTON SIOUX TRIBE OF INDIANS,)	Docket No. 332-A
)	
THE CHIPPEWA CREE TRIBE OF INDIANS,)	Docket No. 221-A
)	
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

Decided: August 27, 1965

FINDINGS OF FACT

Preliminary Statement

Petitioners in Docket No. 74, Sioux Tribe, et al, filed a motion before this Commission on March 23, 1965, requesting that certain preliminary questions concerning that docket be determined. Upon response by the interested parties the matter was argued before the Commission on April 29, 1965.

In pursuance of the motion and upon oral agreement made by the parties in open hearing the Commission will make a preliminary determination of the location of the western boundary of the "Territory of the Sioux or Dahcotah Nation" as defined in the Treaty of Fort Laramie of September 17, 1851 (11 Stat. 749). For the reasons set

forth hereinafter the Commission is of the opinion that the Treaty of Fort Laramie (11 Stat. 749) recognized the title of the "Sioux or Dahcotah Nation" and that prior litigation has made findings of fact on the subject unnecessary.

For the purpose of the factual determination with regard to the location of the western boundary of the area described in the treaty as that of the "Sioux or Dahcotah Nation", the following findings of fact are made:

1. Prior to and during the negotiations leading to the Treaty of Fort Laramie the following instructions were issued and statements made concerning the desirability and purpose of establishing boundaries for the various tribes in the area concerned in the treaty:

* * *

On August 16, 1849, Mr. Orlando Brown, the new Commissioner of Indian Affairs, wrote to Thomas Fitzpatrick, a Superintendent of Indian Affairs, informing him that the recommendations made in the June 15 letter had been approved by the Secretary of the Interior, who directed that they be carried into effect. Commissioner Brown instructed that

* * * The arrangements desired can best be effected by a treaty, to which all the Indians, or the larger and more important tribes of your agency, shall be parties; and which shall bind them to abstain from hostilities against each other, and not only from molesting in any way our military expeditions or emigrants, but to afford them any kindness or facilities in their power, when needed. There should also be a clear and definite understanding as to the general boundaries of the sections of country respectively claimed by them, as their residence and hunting grounds; and they should be required not to trespass upon those of each other without permission from the occupant tribes, or from the proper agent or agents of the government. * * *

In his annual report to the Commissioner of Indian Affairs written from St. Louis on October 13, 1849, Superintendent of Indian Affairs; D. D. Mitchell stated:

* * * Again, the boundaries dividing the different tribes have never been settled or defined; that is the fruitful source of many of their bloody strifes, and can only be removed by mutual concessions, sanctioned by the government of the United States. The boundaries being once established and clearly understood, each tribe could be held responsible for any depredations that might be committed within their respective territories. * * *

The Commissioner, in turn, in his annual report to the Secretary of the Interior, dated November 30, 1849, stated:

* * * Under these circumstances, it has been deemed expedient and advisable to take measures to bring about a proper understanding with the Indians, which will secure their good will, and prevent collisions and strife among them, by obligating each tribe to remain as much as possible within their respective districts of country, and providing that, where disputes or difficulties occur, they shall be submitted to the government, and the Indians abide by its decision. * * *

Congress by the Act of February 27, 1851, 9 Stat. 570, 572, appropriated \$100,000 for the expenses of making treaties with the Indian tribes of the prairies. The President designated D. D. Mitchell and Thomas Fitzpatrick to act as treaty commissioners. In his letter to Mitchell, under date of May 26, 1851, informing him of his selection as a treaty commissioner, the Commissioner of Indian Affairs re-emphasized the need to provide compensation to the Indians for the use of the right of way across their lands, and stated:

It is important, if practicable, to establish for each tribe some fixed boundaries, within which they should stipulate generally to reside, and each should agree not to intrude within the limits assigned to another tribe without its consent. If in arranging such boundaries there should be a portion of country not included where it has been their habit to go periodically in pursuit of game, it should be recognized as a neutral ground where all will enjoy equal privileges and have no right to molest or interfere with one another. IV Kappler, Indian Affairs, Laws and Treaties, Senate Document 53, 70th Cong., 1st Sess., p. 1074-1075.

