

BEFORE THE INDIAN CLAIMS COMMISSION

THE IOWA TRIBE OF THE IOWA RESERVATION)	
IN KANSAS AND NEBRASKA, ET AL.,)	
THE SAC AND FOX TRIBE OF INDIANS OF)	
OKLAHOMA, ET AL.,)	
Plaintiffs,)	
v.)	Docket No. 153
THE UNITED STATES OF AMERICA,)	
Defendant.)	

Decided: February 4, 1970

FINDINGS OF FACT

The Commission makes the following findings of fact which are supplemental to the findings numbered 1 through 14 previously made, 7 Ind. Cl. Comm. 98 (1959):

15. Royce Cession 262 is located in central Iowa, bounded on the south by the Iowa-Missouri line, on the east of Royce Cession 244, on the north by Royce Cession 152, and on the northwest and west by Royce Cession 151. The Cession includes 11,776,000 acres. The Iowa Nation had recognized title to a tract of 3,184,000 acres in the southwestern portion of Cession 262 ("262 South"), which is to be valued as of February 28, 1839, the effective date of the Iowa Treaty of October 19, 1838, 7 Stat. 568. The Sac and Fox Nation had recognized title to the remaining 8,592,000 acres of the Cession ("262 North"). This tract is to be valued as of February 15, 1843, the effective date of the Sac and Fox Treaty of October 11, 1842, 7 Stat. 596.

16. Cession 262 has an excellent climate for growing field

grain crops, especially corn, and livestock products. The average annual temperature is about 50 degrees and the summer temperatures average 70 to 75 degrees. Precipitation averages from 30 to 36 inches, with the major part coming during the growing season. The growing season is from 150 to 170 days. At the cession dates, the climate was known to be well suited to agriculture.

Over 55% of the cession area had from 0 to 4% slope and 30% had from 5% to 13% slope. This is excellent topography for farming. Much of the cession land was well drained, although in the northwest portion of the cession a lack of natural drainage caused depressional areas or pot holes. The land however could often be farmed between the depressional areas and settlers at the valuation dates would not have seriously considered artificially draining the area.

The cession lies in the central part of the highly productive corn belt. The soils in the cession area were among the best in the country for the production of grains and grasses.

We find that the highest and best use of Cession 262 was for general farming by settlers to whom the purchaser of the tract would be expected to sell in smaller parcels. Other uses existed for small portions of the area. These included town and mill sites, hunting, fishing, trapping, grazing, mining and quarrying.

17. Many rivers and streams flow through the cession area. The Des Moines River, with its tributaries, was the principal river in the cession. The Des Moines River flows from northwest to southeast through Royce Area 262. Other important rivers in the subject tract

were the Skunk, Iowa, Cedar and Wapsipinicon in the Sac and Fox portion of the cession, and the Grand (also known as the Thompson) and the Chariton in the Iowa portion. Only the Des Moines was navigable for steamboats, and as of the cession dates it was in need of navigational improvements. Keelboats could operate on some of the other rivers.

The streams also provided numerous millsites which were of importance to the settlers in supplying the water power for saw and grist mills.

18. Timber was found along the rivers and streams of the cession area. We find that the settlers preferred at least to have sufficient wood to use for fences, fuel and similar needs. Thus if a prospective purchaser of the tract envisioned resale of the cession area in small parcels, the distribution as well as the quantity of wooded lands would be of importance to him in determining value.

Dr. William Murray, defendant's appraiser, tabulated the percentage of townships in which woodlands of various qualities were distributed, as follows:

In Area 262 South, for 93 townships, based on surveyors' notes: Very good or good timber--57%; Medium or fair timber--23%; Poor or no timber--20%. For 52 additional townships, based on survey plats: Large amount of timber--33%; Average amount of timber--34%; Little timber--33%.

In Area 262 North, for 271 townships, based on surveyors' notes: Very good or good timber--37%; Medium or fair timber--34%; Poor or no

timber--29%. For 117 additional townships, based on end-of-mile comments: Large amount of timber--17%; Average amount of timber--32%; Little or no timber--51%.

Drs. Raleigh Barlowe and Conrad H. Hammer, in their valuation report made for plaintiffs, calculated that some timber was found in 93.3% of the townships in the cession area for which surveyor's notes and comments are available.

19. It was known as of the valuation dates that there were significant deposits of coal in Cession 262. During the early years of settlement drift mining predominated. Surface outcroppings of coal usually occurred along banks of rivers and streams, the same areas in which timber was most plentiful. This plentiful supply of timber for fuel thus limited early mining activities.

At the valuation dates, the cession areas were also known to contain deposits of limestone and sandstone which were useful for building purposes. Gypsum and iron ore were also known to be present in parts of cession 262 North.

20. In the 1830's and 1840's the nation experienced successive prosperity-depression-revival periods in its economy. Willard Long Thorp, in a book entitled Business Annals published by the National Bureau of Economic Research described the economic conditions as of the cession dates as follows:

1839 Revival [from the 1837-38 depression]; panic; recession. Continued improvement; revival of land speculation early in year; rapid decline to depression, autumn; many failures; commodity prices collapse after rapid rise; recovery in foreign trade.

Further resumption led by United States Bank, January; money market tightens to panic and bank failures, October; specie payment again suspended, except New England and New York, last quarter.

Excellent wheat harvest, record cotton crop, prices collapse.

War with England over boundary threatened, January.

1843 Depression [which began in 1839-40 continues]; revival. Inactivity gradually yields to improvement, summer, except in south; commodity prices reach low point and improve, autumn; excellent exports, small import trade.

Money easy; active speculation, security prices advancing to July.

Good cereal crops, especially corn; poor cotton yield; very low wheat price.

Thus, as of February 28, 1839, general economic conditions had improved after the 1837-1838 depression. As of February 15, 1843, a long depression continued with some signs of revival appearing in the easing of the money supply and the advance of securities prices.

21. At the valuation dates, the minimum cash price for government lands was \$1.25 per acre. In practice this became the maximum cash price as well. Preemption laws, "claim clubs" to prevent the bidding up of prices, and the large supply of public lands resulted in \$1.25 becoming the standard price for government lands, even though all lands, except those subject to preemption claims, were offered at public auction. The average sales price for public lands in Iowa from 1838 through 1843 was \$1.25 in every year except 1847, when it was

\$1.26. On August 15, 1836, Jackson's specie circular went into effect. After that date, all cash payments to government land offices were required to be in gold or silver coins or in authorized paper currency, thus eliminating the use of state bank notes of questionable value.

Land could also be purchased through the use of military land warrants. Between 1847 and 1855 Congress granted warrants for almost 61,000,000 acres to veterans and a market for them quickly developed. Until March 1852, warrant prices remained extremely low because of difficulties in transferring them. At that date Congress made all previously issued and future warrants assignable.

In 1847, Congress gave each veteran the option of \$100 in treasury scrip or a 160 acre warrant. Few chose scrip, but this tended to put a floor of 62 1/2 cents per acre on the price of land warrants, although reports exist of sales as low as \$30 for 160 acre warrants in 1849.

Reputable brokerage firms on the east coast soon controlled and regularized the land warrant market. Warrants could be sold for cash in the West at an advance above New York prices. The purchase of warrants also involved the payment of a brokerage fee, a land office fee and a real estate agent's fee. These added approximately 10 cents per acre to the cost of land. The New York prices per acre for land warrants were quoted as follows:

<u>Years</u>	<u>High</u>	<u>Low</u>
1848-1850	\$.88 3/4	\$.62 1/2
1851-1852	.96 7/8	.62 1/2
1853-1854	1.20	.91 7/8
1855-1856	1.16 1/2	.85
1857-1858	1.05	.60
1859-1860	.96	.60

Exclusive of lands granted to the state and to railroads, 52.4% of the land in the state of Iowa was entered through land warrants.

22. The minimum price for government land of \$1.25 per acre had emerged as a compromise between those members of Congress who believed that the government should sell lands as a prime revenue raising measure, and those who believed that public lands should be turned over to the settlers free of charge or at a nominal price. The government price of \$1.25 per acre was the same for the finest and for the worst lands.

23. The first townships were proclaimed for sale in the cession area in 1845. More than half of the cession area was proclaimed for sale by the end of 1848, and 80% was offered by 1850. By 1854, all but six townships (offered in 1858), had been offered for sale.

Comparatively little land was sold from 1845 through 1852. At the end of 1852, 22.5% of the sales in 262 South and 19.9% of those in 262 North had taken place. The years 1853 through 1856 brought the largest numbers of sales, with 1854 and 1855 being peak periods. From 1853 through 1856, 75.8% of the sales in 262 South and the same percentage in 262 North took place. The remainder of the sales were completed by the end of 1860.

24. In 1840, there were 18,370,000 acres of unsold public land in Missouri, 13,936,000 acres in Illinois and 112,646,000 acres in the entire United States. With land selling at a uniform price, comparative value may be gauged by the rapidity of sale. Drs. Raleigh Barlowe and Conrad H. Hammer, witnesses for plaintiffs, mapped for each

township in the cession the number of years which elapsed from the time each was put on sale (1845 to 1858) until 90% of the privately acquired land in the township was sold. Of the 527 townships in the cession area, approximately 80 were 90% or more sold in less than four years. Many of these were among the last offered townships in the western part of 262 North. Most of the townships along the Des Moines River, some along the Iowa River, those on the northern border of 262 North, and the great majority of those in 262 South were 90% sold in four to seven years. Over half the townships in the cession were 90% sold in less than seven years. Almost all the remaining townships, in the eastern and northcentral part of 262 North and some in 262 South, were sold to the 90% level in seven to ten years. Only eleven townships, in the north and west of 262 North, required more than ten years to reach the 90% sale level.

By comparison, in 1840, 8,341,000 acres of the unsold public land in Missouri, 5,271,000 acres of such land in Illinois, and 60,421,000 acres of such land in the entire United States had been on the market for over ten years. In 1854, the Graduation Act, 10 Stat. 574, provided for a reduction of land prices from \$1.25 to \$1.00 per acre for lands remaining on the market for ten years or more, and further reductions at five year intervals to 12 1/2 cents per acre after 30 years.

25. As of the cession dates, a purchaser would estimate his return on investment by examining resales of lands in eastern Iowa (Royce Areas 175, 226, and 244). A purchaser would know that while the

eastern Iowa lands were generally comparable to those in Cession 262, the eastern lands had certain advantages not enjoyed by the lands further west. Much of eastern Iowa was located along the Mississippi River which was a very important commercial route at that time. The eastern counties were also closer to the population centers of the East and South than the lands in Cession 262. Eastern Iowa had more timber than Cession 262; it also had a slightly longer growing season and received more precipitation. Cession 262 had fewer steep lands than eastern Iowa, but it had drainage problems and problems with pot holes in the northwest portion which eastern Iowa did not have. A purchaser might have thought the soil in Cession 262 to be slightly more productive than that in Eastern Iowa because of the dark color of the Webster soils in the northwest, although little difference in soil fertility seems actually to exist on the average between the two areas.

Drs. Raleigh Barlowe and Conrad H. Hammer, witnesses for plaintiffs, assembled information on resales of land in eastern Iowa. In one tabulation they examined resales for the counties of Cedar, Delaware, Des Moines, Jackson, Van Buren and Washington. Eliminating sales under \$1.26 as partial financing and those over \$5.00 as representing improved land, they obtained the following results for average resale prices in the six county area: 1838--\$2.33; 1839--\$2.65; 1840--\$2.63; 1841--\$2.60; 1842--\$2.82; 1843--\$2.96.

Drs. Barlowe and Hammer also used another method to adjust these resale figures for improvements. The Census of 1900 showed that improvements in the 19 eastern Iowa counties accounted for 16.7% to

22.3% of farm real estate values. By deducting 20% from resale prices, after elimination of transactions which seem to involve partial financing arrangements, resale values per acre for the six county sample are \$2.88 in 1839, \$2.98 in 1840, \$2.55 in 1841, \$2.85 in 1842 and \$2.98 in 1843.

As an additional method of adjusting for improvements, Drs. Barlowe and Hammer examined the Census of 1850 which first reported on the amount of improved land in eastern Iowa. They then eliminated the highest sales roughly in proportion to the amount of improvements, as well as eliminating all sales of \$1.00 or less per acre as representing partial financing arrangements or other situations untypical of bona fide sales. For five counties bordering on Cession 262, the following results were reached:

% improved land shown in 1850 census; by county:

Van Buren	19.33%	Johnson	6.38%
Jefferson	19.50%	Linn	8.16%
Washington	6.85%	<u>AVERAGE</u>	12.44%

<u>Year</u>	<u>% acreage removed-sales over \$5.00</u>	<u>Per Acre Value</u>	<u>% acreage removed-sales over \$4.00</u>	<u>Per Acre value</u>
1839	11.2	\$2.31	18.8	\$2.08
1840	12.3	2.33	22.8	2.00
1841	6.2	2.37	13.5	2.16
1842	11.6	2.82	29.2	2.38
1843	11.3	2.38	21.6	2.06

26. Dr. Robert P. Swierenga, plaintiffs' witness, found that ten large investors entered 14.2% of the land in eastern Iowa. Resales by these persons during the years 1838 to 1842 in eight counties in

eastern Iowa averaged \$2.19 per acre. Dr. Swierenga also found that investors acquiring 1,000 or more acres in Cession 262 who also had holdings in eastern Iowa sold 5,779 acres in the eastern counties between 1838 and 1842 at an average price of \$3.21 per acre.

27. It appears that in fact resale prices in Cession 262 were higher than the resales for Eastern Iowa would have indicated. Through the use of electronic data processing methods, Dr. Swierenga tabulated resales of 460,000 acres in nine counties in Cession 262 by persons who had originally entered 1,000 acres or more in the entire cession area. The resales occurred between 1846 and 1889, with 98.5% of the resales occurring before 1871. He found that the land was held by such persons for an average of 31.6 months before resale and was sold by them at an average of \$3.10 per acre. He computed that the net rate of return to these investors averaged 53.42%. This is not, however, the profit of the investor since, as Dr. Swierenga points out, it makes no allowance for an interest rate to the invested capital nor for the time spent by the investor in managing his real estate. Defendant's expert witness, Dr. William Murray, reports that commercial paper rates in February 1839 were 6% to 9% and in February 1843 were 5% to 6%. Rates by November 1839 went as high as 36% and in June 1843 went as low as 2 1/2% to 3%.

Results of these resales in Cession 262 would not have been known to a purchaser as of the valuation date of either portion of the tract, and thus can be regarded only as hindsight information which can be used only to corroborate findings of value based on

information known as of the valuation date.

28. Defendant's expert witness, Dr. William G. Murray, reviewed factors such as location, population, topography, resources, climate, transportation, economic factors and public land sales in comparison areas. He did not consider private resale transactions because he was unable to determine the extent of improvements on the lands.

His valuation of Area 262 South was as follows:

15% of tract most accessible to Des Moines River -- 90¢ per acre
35% of tract in Des Moines River basin -- 40¢ per acre
50% of tract principally in Grand and Chariton River basins --
25¢ per acre.

Average value for entire 262 South -- 40¢ per acre.

His valuation for 262 North was as follows:

10% of tract near Des Moines River -- \$1.45 per acre
20% of tract near rivers and/or timber -- 95¢ per acre
60% of tract, open prairie -- 25¢ per acre
10% of tract, wet, marshy or steep lands -- 15¢ per acre.

Average value for entire 262 North -- 50¢ per acre.

29. As of February 28, 1839, a purchaser of Area 262 South could not have anticipated rapid settlement of the Area. Immediately to the west lay several million acres (Royce Cessions 151 and 256, which overlap to a large extent) which were used for hunting by the Yankton Sioux, Omaha, Otoe, Iowa and Sac and Fox. See, Otoe and Missouriia Tribe v. United States, 5 Ind. Cl. Comm. 316 (1957). In addition the United Nation of Chippewa, Ottawa and Potawatomi had been granted a 5 million acre tract of this land in 1833. See, Prairie Band of

Potawatomi Indians, et al., v. United States, 4 Ind. Cl. Comm. 409 (1956). Beginning in 1836, even though all the United Nation members had not completed their move to western Iowa, the government initiated attempts at a second removal southwest of the Missouri River. Prairie Band of Potawatomi, id. at 426. This removal was not effected until 1846.

Directly to the south of 262 South lay lands ceded by the Iowa Nation in 1824. See, Iowa Tribe et al., v. United States, 6 Ind. Cl. Comm. 464 (1958), aff'd. in part and reversed in part 179 Ct. Cl. 8, 383 F. 2d 991 (1967), cert. denied, 389 U.S. 900 (1967). The pattern of settlement in Missouri however was such that this area was first settled in the middle and late 1830's. See, Iowa Tribe et al., v. United States, 12 Ind. Cl. Comm. 487, 499 (1963), aff'd. in part and reversed in part 179 Ct. Cl. 8, 383 F. 2d 991 (1967), cert. denied, 389 U.S. 900 (1967).

To the north and east of Area 262 South lay Area 262 North. A purchaser would probably have known that a cession by the Sac and Fox who owned this area would be one of the necessary prerequisites to the rapid settlement of 262 South. He would also have known that the government had encountered difficulties in negotiating a treaty with the Sac and Fox to cede the area. Reporting his negotiations which led to the Treaty of September 28, 1836, 7 Stat. 520, with the Sac and Fox, Treaty Commissioner Dodge wrote to the Commissioner of Indian Affairs as follows (Pet. Ex. A-3):

"The Sac and Fox Indians would not consent to a proposition I made them to sell their Country and remove South of the Missouri River. The Chiefs and principal men of these nations are under the belief that their Country is to become immensely valuable; and I have no doubt their traders were the means of preventing their selling more of their Country at the Treaty I made with them. It is inconvenient for traders to follow the Indians South of the Missouri River."

A purchaser would know that 25,000 to 30,000 people lived in Eastern Iowa at the valuation date of 262 South. He would know that land in 48 townships of Cession 175 had been offered for sale in 1838. By the end of 1838, 25% of this land had been sold including 46% of the land offered in the southern portion. Another 12% of the 48 townships was sold in 1839. As of February 28, 1839, less than one-third of the land in the southern portion had yet been offered for sale.

30. As of February 15, 1843, a purchaser of Area 262 North would know that the cession by the Sac and Fox opened a vast area in central Iowa although the Sac and Fox retained the right to occupy the western portion of the Cession, comprising over half of Cession 262, until 1845, Treaty of October 11, 1842, 7 Stat. 596. He would know that the population of Iowa had grown to approximately 55,000 to 60,000. He would know that land in some 205 townships in eastern Iowa had been placed on the public land market, although it was 1843 before any land in Cession 244, immediately to the east of Cession 262, was offered. In addition, a purchaser would know that through 1842, 32% of the land in the 205 townships offered prior to 1843 had been sold. In the 79 southern townships, 67% of the land had been sold. Virtually

all the land in the southern area except for Cession 244 had been offered for sale.

31. At the cession dates, the people in eastern Iowa thought the lands in Cession 262 to be highly desirable and productive. A number of settlers rushed into the eastern and western portions of the cession areas at the respective dates when they were opened for settlement. Indeed a number of squatters had established claims prior to government survey of the areas.

The comparatively heavy population in the southern part of eastern Iowa would lead a purchaser to believe that the course of movement into Cession 262 would be along the Des Moines River and other rivers which flowed into the southern part of eastern Iowa from the cession area.

32. For the reasons indicated in our opinion, we find the value of the 3,184,000 acres in 262 South to be \$2,865,600 or an average of 90¢ per acre. We find the value of the 8,592,000 acres in 262 North to be \$12,028,800 or an average of \$1.40 per acre.

33. The Iowa Treaty of October 19, 1838, 7 Stat. 568, ceded the Iowa Tribe's interest in Royce Areas 175, 226, 244 and 262. An award for the first three of these areas was made in The Sac and Fox Tribe et al., v. United States, 20 Ind. Cl. Comm. 439 (1969). finding of fact No. 52 in that case stated in part:

"The total consideration paid to the Iowa Nation under the 1838 Iowa treaty was \$162,500 of which amount \$80,600 is allocable to the Iowa interests in the three cession areas." 20 Ind. Cl. Comm. 439, 501 (1969).

The remainder of this consideration, amounting to \$81,900, is

allocable to Cession 262. Such consideration is unconscionable under the Indian Claims Commission Act.

34. The Sac and Fox Nation ceded all its right, title and interest to Cession 262 under two treaties. The first of these, with the Sac and Fox of Missouri dated October 21, 1837, 7 Stat. 543, provided for consideration of \$160,000 in payment for their interest in Royce Cessions 175, 226, 244 and 262. Pursuant to the stipulation for entry of final judgment in Docket 138 which was approved and entered by the Commission, Otoe and Missouri Tribe v. United States, 15 Ind. Cl. Comm. 42, 46 (1965), it was provided that "\$140,800 of the sum paid to the Sac and Fox of the Missouri" under this treaty "is to be accredited to the government on account of payments for Royce Cessions 175, 226, 244 and 262 and allocated in Dockets numbered 158, 209, 231 and 153." The Commission has previously credited to the government \$54,729 on account of payments for Royce Cessions 175 and 244, The Sac and Fox Tribe et al., v. United States, 20 Ind. Cl. Comm. 439, 493, 499-500 (1969). The Commission found that \$1,056 was allocable to Cession 226, id., 20 Ind. Cl. Comm. 439, 497 (1969), but did not credit this to the Government since it found that full value was paid for Cession 226. Thus \$86,071 remains to be credited to the government in this docket.

35. The second treaty with the Sac and Fox Nation was made with the Sac and Fox Indians and dated October 11, 1842, 7 Stat. 596. It provided in part as follows:

ARTICLE II

In consideration of the cession contained in the preceding article, the United States agree to pay annually to the Sac and Foxes, an interest of five per centum upon the sum of eight hundred thousand dollars, and to pay their debts mentioned in the schedule annexed to and made part of this treaty, amounting to the sum of two hundred and fifty-eight thousand, five hundred and sixty-six dollars and thirty four cents; and the United States also agree,

First, That the President will as soon after this treaty is ratified on their part as may be convenient, assign a tract of land suitable and convenient, for Indian purposes, to the Sacs and Foxes for a permanent and perpetual residence....

Second, That the United States will [provide certain blacksmith and gunsmith supplies and services].

Third, That the President of the United States will [cause a line to be run between the land which the Sac and Fox reserved the right to occupy for three years and ceded lands opened to white settlement].

For the reasons indicated in our opinion, we have found that the payments described as interest of 5% on \$800,000 were intended to be a perpetual annuity and that credit should be allowed for consideration of \$800,000 by reason of this provision.

36. Under the Treaty of October 11, 1842, certain expenditures were to be made out of annuities payable to the tribe. Under Article II Second

"...all expenses attending the removal of the tools, iron and steel, and the erection of new shops, and the purchase of iron and steel, and the support and maintenance of the shops, and wages of the smiths and their assistants, are to be paid by the tribe, except such portion thereof as they are now entitled to have paid by the United States, under [certain previous treaties.]

Under Article III, the Sac and Foxes agree to move first to the western

portion of the cession and then to their new residence lands,

"and that if they do not remove before the expiration of the term of three years, they will then remove at their own expense; and the United States agree, that...a quantity of provisions sufficient for their subsistence while removing, shall be furnished them at their agency, and an additional quantity, not exceeding one years supply shall be delivered to them upon their arrival upon the lands assigned them; the cost and expenses of which supplies shall be retained out of any money payable to them by the United States."

Reviewing the Treaty, we find that the only items of consideration for this cession to be received by the Sacs and Foxes besides the annuity were (1) the new residence lands, (2) the payment of debts, (3) the running of a line marking their temporary residence lands, and (4) perhaps expenses of removal (but not of provisions for subsistence) under Article III. In the Report of the General Accounting Office no expenditure which may be identified as the running of the above line is found and expenditures for removal cannot be separated from those for subsistence for which the Sacs and Foxes themselves were to be charged. Thus the government may receive additional credit for \$258,566.34 which was the amount of debts paid pursuant to Article II and for the reservation lands in Kansas given to the Sacs and Foxes.

37. The tract selected for the Sac and Fox Reservation pursuant to the 1842 Treaty, and to which the Sac and Fox removed in 1845 and 1846, was not officially surveyed until after they had settled on it. Subsequently, it was discovered that the Sac and Fox Reservation overlapped 90,000 acres of the northwest corner of the Pottawatomie Reservation (Royce Area 266). By the treaty of cession of June 5, and 17, 1846, 9 Stat. 853, with the Pottawatomie Nation, the United States

cleared the title to the overlap area in favor of the Sac and Fox Indians. In Prairie Band of Pottawatomi Indians v. United States, 4 Ind. Cl. Comm. 409 (1956) we found the fair market value of a 909,565.62 acre tract which included the 90,000 acre overlap to be 65¢ per acre in June 1846. We find this to be an accurate reflection of the per acre value of the entire Kansas Reservation at the date it was received by the Sac and Fox.

Thus the total consideration paid by the United States under the Treaty of October 11, 1842, was as follows:

Annuity	\$800,000.00
Debts paid	258,566.34
Kansas Reservation (435,200 acres at 65¢ per acre)	<u>282,880.00</u>
	\$1,341,446.34

38. We also find that the consideration paid the Sac and Fox under the Treaties of October 21, 1837, and October 11, 1842, was unconscionable under the Indian Claims Commission Act.

39. On July 19, 1961, a stipulation between the Sac and Fox Tribes and defendant was filed with the Commission, agreeing to a compromise of offsets in the amount of \$35,000 for the period from November 2, 1804, to June 30, 1960, in dockets including 153. The stipulated offsets were applied in full in Docket No. 138, 15 Ind. Cl. Comm. 42, 47, 65 (1965). On February 5, 1964, a stipulation between the Iowa Tribes and defendant was filed with the Commission, agreeing to a compromise of offsets in the amount of \$45,000 for the period from August 4, 1824, to June 30, 1956, in Dockets including 153. The stipulated

offsets were applied in full in Docket No. 135, 15 Ind. Cl. Comm. 248, 249, 265 (1965). The defendant has made no claim for offsets of gratuities subsequent to June 30, 1960, as to the Sac and Fox Tribes and subsequent to June 30, 1956, as to the Iowa Tribes, but has reserved such offsets for any other claims of the petitioners.

On the basis of these stipulations, we find that the judgment in this value stage of this claim shall be the final judgment.

Based on all the evidence, we find that the Iowa Nation is entitled to recover the following amount:

Value of "262 South"	\$2,865,600
Less consideration received	<u>81,900</u>
	\$2,783,700

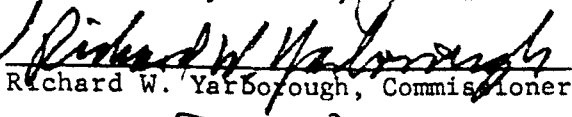
The Sac and Fox Nation is entitled to recover the following amount:

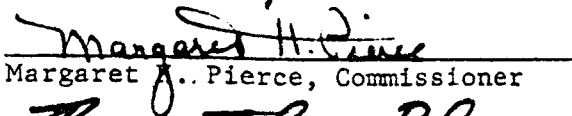
Value of "262 North"	\$12,028,800.00
Less consideration received	
1837 Treaty	86,071.00
1842 Treaty	<u>1,341,446.94</u>
	\$10,601,282.66


We concur:


John T. Vance, Commissioner


Jerome K. Kuykendall, Chairman


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner