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**INDIAN CLAIMS COMMISSION**

Washington, D. C.

January 25, 1960.

THE NAVAJO INDIAN TRIBE  
and  
THE HOPI INDIAN TRIBE, et al,  
**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**  
**Defendant,**

Docket No. 229 and  
196.

**HART & HARKINS**  
SHORTHAND AND STENOGRAPHY REPORTING  
930 F STREET, N. W. WASHINGTON 4, D. C.  
NATIONAL 8-0343

26 clear in my mind if I can. I don't want to get wrong impressions and then later on find out that I was going up the wrong street.

COMMISSIONER HOLT: What I am getting at is that it comes back to your proof of what they did actually occupy. All this says is that they relinquished --

MR. SONOSKY: It doesn't say claim. It says relinquish all right to occupy any territory outside their reservation.

COMMISSIONER HOLT: So it is up to you to prove what they did occupy.

MR. SONOSKY: That is what we are trying to do.

By Mr. Sonosky:

Q Doctor, you traced those boundaries. I think you did indicate that they generally followed natural physical features.

A Yes, they do.

Q So there will be no confusion in the record, on the eastern line it does not include the Rio Grande Valley, does it?

A No, it does not.

Q Did any tribe or group of Indians other than the Navajo occupy and control the country that you have defined as Navajo during the period in suit? I am now referring to this country which is outside the Navajo Reservation and outside the Spanish land grants, for which we also make no

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claim.

No /

A That is right. The Navajos controlled the entire area with those exceptions. *Monterey*

COMMISSIONER WATKINS: You mean they had exclusive occupation?

No!

THE WITNESS: I believe so, yes, sir. They either used it or controlled it. They had exclusive possession and control of it. *None in area east of 1858 line except Jicarillas of Rio Puerco after 1853. A.H.H.*

*Puebllos used part of this area, quite outside their so-called grants as they always had for hunting, herding, and farming miles from the home pueblos. Retreat with trails was temporary July*

COMMISSIONER WATKINS: How about those Mexicans? You said the Mexicans would come in and take part of it and they were having continually turmoil over a section of it, as I understood, within the black lines.

THE WITNESS: We are not making any claims for these Spanish land grants.

COMMISSIONER HOLT: Were the Moquis in there?

THE WITNESS: The Moquis were over here.

COMMISSIONER HOLT: You were talking about the whole area.

THE WITNESS: This is not a Spanish grant over here.

COMMISSIONER HOLT: I thought you said they exclusively occupied all of this within the black exterior lines.

THE WITNESS: That is right, with the certain exceptions of the lands occupied by village Indians. Those village Indians would be Laguna and Acoma and Zuni and Hopi.

MR. LITTLE: Dr. Hammond has in mind the stipulation

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on file which takes the Hopi executive order area out of this case entirely.

MR. SONOSKY: Your Honor, in this case we made claim only for the country outside the reservation.

COMMISSIONER HOLT: I understand, but I thought he said they exclusively occupied all the area within the black line.

CHIEF COMMISSIONER WITT: Isn't that what you did say, Doctor?

THE WITNESS: Yes, with some exceptions.

CHIEF COMMISSIONER WITT: Everything within those black lines?

THE WITNESS: That is right.

MR. SONOSKY: What exceptions?

THE WITNESS: With the exception of the village Indians which are Laguna, Acoma, Zuni and Hopi. We are not making any claim for the Spanish grants. *Acoma and Laguna would have got outside these grants as their herding camp and farm houses*

COMMISSIONER WATKINS: Does that on the west go over *to* as far as the Yavapais lived? *prove. P.E.*

THE WITNESS: On the west we claimed the Coconino Basin beyond the Colorado and Little Colorado Rivers.

By Mr. Sonosky:

Q The Coconino Basin is that portion between stations 30 and 31?

COMMISSIONER WATKINS: Where is it from Flagstaff?

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did that continue, their occupation of that territory exclusively?

THE WITNESS: I think it continued down into the American period.

*In 1750's Cachupin reported the Utes drove the Navajos south (out of Dinakah). They never reoccupied it. (See Thomas, 1946, p. 138).*

COMMISSIONER WATKINS: When was that?

*This forced the southern Navajos into the claim area also. A.H.*

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THE WITNESS: 1848 to 1868.

COMMISSIONER WATKINS: All right, you have answered my question.

MR. BOYDEN: May I ask a question now? This will save a lot of cross-examination on my part. I don't suppose that anything is claimed here for this area that is outlined in the red, so that you are not attempting to prove anything by this testimony within that area. In other words, there is no point in me cross-examining about it? I do not need to cross-examine about the Hopi occupancy within the entire Navajo Reservation? Isn't that correct?

*Present Navajo Res.*

MR. SONOSKY: Our claim is limited to the area outside of the present-day reservation.

CHIEF COMMISSIONER WITT: The Hopis don't claim anything outside the red, do they?

MR. BOYDEN: Yes, it is within this orange on the other map. We are in conflict there. I don't know whether they intend to make this testimony as strong as they have put it here. Since they are not claiming this area in here --

SENATOR WATKINS: I think the questions were clear

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enough. The Doctor is a very intelligent witness and I left it to him to say what he claimed.

MR. BOYDEN: Maybe if we draw the Hopi in on this exhibit that is in it will help.

MR. SONOSKY: Let the record show that counsel for the Hopi is drawing in that part of the territory claimed.

CHIEF COMMISSIONER WITT: I think that is a very good idea, because that is not in there.

MR. BOYDEN: I have drawn a line on the Little Colorado to the point where it intercepts with the Zuni. The railroading has been done by Mr. Sonosky.

MR. LUNDIN: Will the record show that the black line on Plaintiff's Exhibit 510 which has some cross markings on it indicates the extent of the Hopi overlapping claim to the area outside the present-day Navajo reservation, but it does not affect the Navajo claim which is denoted by the heavy black line without cross marking on the map.

MR. BOYDEN: I hope I understand what you mean.

MR. SONOSKY: Are you through, Mr. Boyden?

MR. BOYDEN: Mr. Sonosky, you are not attempting to prove anything by this witness within that red line of the Navajo Reservation at this time, are you?

MR. SONOSKY: Except that it is a part of the Navajo country.

CHIEF COMMISSIONER WITT: It is not being sued for.

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MR. SONOSKY: No claim is being made for it.

MR. BOYDEN: The point I am making is whether at this time my understanding is correct, which was when I made the stipulation, I would be charged with the responsibility of defending with respect to this particular small part.

CHIEF COMMISSIONER WITT: Because that is all that compensation is being sought on.

MR. BOYDEN: That is right.

COMMISSIONER HOLT: Right in that connection, I understood him to say that the Hopi had this area within the present reservation.

MR. BOYDEN: I don't think he said that.

MR. LITTELL: No.

COMMISSIONER HOLT: I asked him when they got that.

COMMISSIONER WATKINS: By an executive order. Is there a conflict over that?

COMMISSIONER HOLT: I asked how they got it.

THE WITNESS: I thought you were talking about the Navajos.

MR. LITTELL: What the witness said was the mesa tops, which is conceded, but he was not talking about the entire area within the executive order area. He was recognizing the historic fact that the Hopis occupied those villages on the mesa tops from very early times.

COMMISSIONER HOLT: Not that whole area.

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MR. LITTELL: Not the whole area within the yellow lines.

MR. BOYDEN: That is the difficulty with sweeping gestures. The record won't show that, but he did go like this and covered the area nicely with his hand, but not with his words.

MR. LITTELL: Well, Your Honor, he can't break the testimonial line at the edge of that executive order. He is saying that the Navajos occupied all of the area within the black line with the exception of those Indian villages or pueblos, including the Moqui or Hopi villages mesa tops.

Now it becomes immaterial because we have a signed stipulation in this case <sup>which</sup> eliminated that area within the Hopi executive order which will be disposed of, as you know, in the three-judge court.

CHIEF COMMISSIONER WITT: And the only controversy at this hearing between the Hopis and the Navajos is that territory included south of the red line that has just been enclosed by the black line by Mr. Boyden.

MR. LITTELL: Precisely.

MR. BOYDEN: The only question I want to know is, in view of the testimony that has been given extending over a much broader territory than either one of us is claiming, am I bound by the testimony that is introduced by the Navajos in that regard?

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MR. LUNDIN: I think the Hopi counsel should be advised that eventually there may be a Hopi claim, in 196, for an area of the entire Hopi claim, which includes a large portion of the present-day Navajo reservation. At that time the defendant may feel well justified in pointing to testimony in this case concerning areas within the present-day Hopi reservation offered by various witnesses, whether ours or plaintiff's, depending, of course, upon what the Commission decides with respect to following the testimony of plaintiff's witnesses. In other words, we may want to say that if the Commission follows Dr. Hammond's testimony and makes an award thereon, we may want in the Hopi case to say, "Well the Commission followed Dr. Hammond. What is good for one case is certainly good for the Hopi case. In the Navajo case the Dr. Hammond testified the Hopi didn't live in most of that area and, hence, the Hopi should not recover."

CHIEF COMMISSIONER WITT: Will Dr. Hammond testify in that three-judge court case?

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MR. LUNDIN: I don't know. I am talking about an area outside the Hopi reservation down in here and around here, roughly, which the Hopi are claiming before the Indian Claims Commission in their Docket 196 in addition to this area. I think that all parties should be advised that the defendant reserves the right in that further case to utilize whatever testimony has been offered here by any witness, including the

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defendants or any plaintiff, for purposes of that case as well and that the witnesses and counsel are here and if any statements are made which bear upon these areas that we may want to utilize those statements.

COMMISSIONER HOLF: In other words, his statement here is that outside of that small part this was Navajo territory.

MR. LUNDIN: Precisely, which includes this part, this part and part in here, not saying exactly what part.

MR. BOYDEN: The point I raise is this, that if I am to be bound by that testimony here and can only cross-examine with what I know at this time, that certainly puts me in an unfair position. While I don't expect to remove the testimony, if that is the situation I certainly would expect the Commission to reserve to me the right to further cross-examine this witness after I have the testimony of my experts with respect to the other part of the reservation.

CHIEF COMMISSIONER WITT: Can't you cross-examine him on that here?

MR. BOYDEN: That is what I say. I cannot do it competently because my experts have not given me their reports with respect to this territory. I know generally what we have claimed and we claim this.

CHIEF COMMISSIONER WITT: Certainly the Government will be permitted to use whatever testimony is given in this

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COMMISSIONER HOLT: You did restrict it to the area claimed, as I understood your question, didn't you, this time?

MR. SONOSKY: No; I didn't restrict it to the area claimed. The question extends to the Navajo country. We have to prove what country it was that the Navajos ceded to the United States. That includes the area inside the present Navajo Reservation and a substantial part of the area inside the Executive Order of 1882 area, also some- times known as the Hopi Area.

COMMISSIONER HOLT: I misunderstood you.

I thought it was the area included in your claim.

MR. SONOSKY: I hope I have clarified it.

I understand Mr. Boyden's objection goes to testimony concerning the area within the Executive Order of 1882. Is that correct?

MR. BOYDEN: No; that is not correct.

My objection goes to requiring us to proceed at this time with reference to the part inside the whole Navajo Reservation, because we have many conflicting places in addition to the one we have stipulated to proceed on. Now we are proceeding with it all, which is contrary to the stipulation.

CHIEF COMMISSIONER WITT: The plaintiff is making out its main case.

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Incidentally, that may involve some territory in addition to the controversy with the Hopis south of the reservation. I don't think they should be limited in their proof to the Hopi viewpoint. However, the Hopi attorney will be given an opportunity to cross-examine this witness and to make whatever contention he feels his situation demands with reference to the future.

The objection to the evidence, however, is overruled.

COMMISSIONER WATKINS: May I inquire of counsel with respect to the issue in this particular case, as well as what we have already developed?

Is it not a fact that one of the issues is how much of this territory the Navajos claim by aboriginal title? In other words, they have to show aboriginal title in order to show that they actually ceded something.

MR. SONGSKY: Without intending to restrict the term, Indian title,

COMMISSIONER WATKINS: I know it has several names.

MR. SONGSKY: Yes, your Honor; that is our burden.

COMMISSIONER WATKINS: That is why I was asking the questions.

We have here a very eminent scholar and there is

THE WITNESS: But it is difficult, I recognize, indeed.

By Mr. Sonosky:

Q In that same place, Exhibit 88, Doctor, you will notice in the third paragraph that Mr. Benton appeared to have some concept of Navajo territory.

A This is Mr. Backus.

Eighty-eight, you are referring to?

Q Yes.

A That is Mr. Backus.

Q Yes; Mr. Backus.

A Mr. Backus; yes.

Q He doesn't define it, but he refers to Navajo territory with reference to other Indians.

Did you note that third paragraph?

A "The country occupied by the Navajos is not susceptible of a high state of cultivation. An exception to this rule will be found at Tunicha and Moqui --

Tunicha -- the mountains here between J and K, 3 and 4.

Moqui -- the Moqui villages -- G, H, 3, 4 and 5.

COMMISSIONER WATKINS: That means, in effect --

MR. BOYDEN: Where does it say "village"?

MR. SONOSKY: "Tunicha and Moqui, Indian pueblos".

MR. LUNDIN: He refers to "Tunicha and Moqui,

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Indian pueblos."

By Mr. Sonosky:

Q What was he referring to there when he said "Tunicha and Moqui, Indian pueblos"?

A The Moqui are pueblos.

There are no pueblos at Tunicha.

Q And Moqui, for the record, is the same as Hopi, as Commissioner Watkins has pointed out?

A That's right.

Q There are no pueblos at Tunicha?

A No.

COMMISSIONER WATKINS: Were there any other pueblos within the territory?

THE WITNESS: Yes. There was Acoma and Laguna and Zuni and the Hopi pueblos.

COMMISSIONER WATKINS: Do you know how he was using the word "pueblo" at this point?

THE WITNESS: I am sure he was referring to it as we have ever since.

There is no question.

Those were the settled, permanent Indian villages that had been there since the Spaniards came.

I was going to note the last paragraph of 88, where he says about the Navajos are found in the southern portion of their country, that is:

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Q Now, Doctor, I would like to have you deal in the same fashion with the western line.

A Very well.

Going back to the early period again, we find evidence of Navajo existence in what I may refer to, for convenience, as the western sector of the Navajo claim, along the Colorado River beyond the Little Colorado, from stations 27, 28, 29, 30 and 31, and back up to station 1.

When James S. Calhoun, the Indian Agent at Santa Fe, was in office, referring to Exhibit 57, he reported that a group of Hopi Indians, then called Moquis, had come to visit him and to complain of the Navajos. They complained bitterly of the depredations of the Navajos, and he tells who were in those depredations.

CHIEF COMMISSIONER WITT: They came to him where?

THE WITNESS: Santa Fe.

In other words, they had journeyed to Santa Fe from the Hopi Pueblos to make their report and to complain of the Navajos.

CHIEF COMMISSIONER WITT: Does he say in that exhibit where they came from?

THE WITNESS: He just says they were Moquis Pueblos and they came from the seven Hopi villages.

CHIEF COMMISSIONER WITT: And that identifies them as being in the yellow square there?

THE WITNESS: That identifies them as coming from this south central area of the Executive Order Reservation.

COMMISSIONER WATKINS: Were any of the villages actually named?

THE WITNESS: No.

COMMISSIONER WATKINS: How do you know they were those seven villages?

THE WITNESS: He says of all the Pueblos. He doesn't name them in this case.

Yes; he does. He names all seven of them. The misspellings are rather bad, but they are all there.

COMMISSIONER WATKINS: Does he call them Pueblos?

THE WITNESS: Yes; the seven Moquis Pueblos, villages.

COMMISSIONER WATKINS: Were they supposed to be Pueblos?

THE WITNESS: Yes; just exactly like those at Laguna and in the Rio Grande Valley.

CHIEF COMMISSIONER WITT: You are certain they didn't come from south of the reservation in the overlapping area there?

THE WITNESS: No; they come from right here in the villages.

COMMISSIONER WATKINS: Are the names the same now

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as they were then?

THE WITNESS: Exactly.

COMMISSIONER HOLT: Doesn't he describe in this letter where they came from?

THE WITNESS: You are speaking now of the Moquis or the Navajos?

COMMISSIONER HOLT: The Moquis.

MR. BOYDEN: I might say to the Commissioner, so that you will understand what our position is going to be, that the Moquis and the Navajos are entirely different in their manners. The Navajos travel considerably. The Hopis have a headquarters and stay there. We will show our occupation of these lands from a headquarters for a long period of time.

CHIEF COMMISSIONER WITT: You will show -- what?

MR. BOYDEN: We will show our use of the land from a headquarters.

CHIEF COMMISSIONER WITT: In the territory of the land?

MR. BOYDEN: Not in this part down there. We will show they were there at an earlier date but during this period of time our Hopis are up at the seven villages.

We will show use of this territory from the seven villages.

COMMISSIONER HOLT: Village and Pueblo are used

interchangeably, aren't they?

MR. BOYDEN: Yes.

By Mr. Sonosky:

Q Dr. Hammond, the seven villages are all located inside the Executive Order Reservation?

A Yes, sir.

CHIEF COMMISSIONER WITT: And the Hopis were living up there at the time of this letter here?

MR. BOYDEN: Yes.

COMMISSIONER HOLT: That is where I thought this described where these Pueblos were.

THE WITNESS: It names them. There is no doubt about where they were. That is a well-established historical fact.

MR. BOYDEN: No; we don't have a bit of dispute over where they were at this time.

THE WITNESS: We are in agreement.

By Mr. Sonosky:

Q I think the Commission brought out that there has been no change in their location. They are still there.

A That is right.

CHIEF COMMISSIONER WITT: In other words, the Hopis admit they were up there where this witness claims they were?

COMMISSIONER HOLT: Where did the ones come from

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to this meeting?

THE WITNESS: They are coming to complain about the Navajos, who were close enough to be troublesome to them.

CHIEF COMMISSIONER WITT: Were they claiming interference with the territory to the south of the reservation?

THE WITNESS: He doesn't identify that particularly.

CHIEF COMMISSIONER WITT: What does it say they were complaining of?

Well, I can read it.

THE WITNESS: He says their object was to ascertain the purposes and views of the government, the Government of the United States, toward them. They complained bitterly of the depredations of the Navajos. As we go on, we will find out that in the next exhibit, I believe it is --

By Mr. Sonosky:

Q Before you go to that, Doctor, is Oraibi regarded as one of the larger Hopi Pueblos or villages?

A At this period under consideration, it was the largest of the Hopi Pueblos.

Q I notice in this same letter the Agent reporting to the Commissioner of Indian Affairs makes a comparison

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In the second paragraph, referring to the Hopis, does he identify the number of towns they had?

A Are you referring to Exhibit 290?

Q Yes.

A Yes; he does, as we have had before.

Q What does he say there?

A They have seven towns or villages and say they have never been visited by white men except Mexicans and Mormons. The delegation is accompanied by a Mormon interpreter who intends to return with them to their country and to remain there. This was 1863.

Q Do the documents, as a whole, make it very plain that there were seven Hopi villages located within what is now the Executive Order Reservation of 1882 and that that was their place of residence?

A Yes. The documents make this very clear.

MR. BOYDEN: There is no question about the number of villages at that time.

COMMISSIONER HOLT: And within the Executive Order Reservation?

MR. BOYDEN: Yes.

THE WITNESS: There is no further question about that one, apparently, so I would like to ask you to turn to 322, another report by Colonel Kit Carson.

These are notes given by General Carlton. This

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is 1864.

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At the top of Page 2 of this exhibit it is stated under date of November 15:

"Colonel Carson with his command left Fort Canby," which is Fort Defiance, "for the country west of the Oraibi villages for the purpose of chastising the Navajo Indians inhabiting that region."

By the Oraibi villages, he means the Hopi villages, of which Oraibi is the westernmost one. Carson is being sent out to the west of that point to inflict this punishment. This is during the period of the war when they were rounding up the Navajos to send them into captivity at Fort Sumner.

By Mr. Sonosky:

Q Would that indicate that the westernmost Hopi village, Oraibi, was inhabited by Navajos?

5 A Exactly. That is what the document states.

MR. BOYDEN: It said they were there in '64, didn't it?

THE WITNESS: The Navajo was inhabiting that region. Yes; it is 1864.

By Mr. Sonosky:

Q The words "inhabiting that region", you are quoting from the text?

he says "Hopi rather than Navajo country".

MR. SONOSKY: I will withdraw the question.

By Mr. Sonosky:

Q Did your research disclose any documentary materials showing the people who were in possession of that country during the critical period in suit?

A I made a study to find out if there were any Hopi --

CHIEF COMMISSIONER WITT: You can answer that question "yes" or "no", Doctor. He asked you: Did you make any investigation of that situation?

THE WITNE . : I made the investigation; yes, sir.

By Mr. Sonosky:

Q What did you find?

A I did not find any Hopi in that area.

Q I think you have already testified with respect to exhibits disclosing Navajo in that area.

A That's right.

Q Did you reach a conclusion as to whether that area was country of the Navajo?

A On the basis of my study of the documents, I concluded it was Navajo country.

Q Referring to the Plaintiffs' Exhibit 510, which shows the Executive Order Reservation of 1882, you testified earlier that the Hopis lived in villages or pueblos in that area. Have you reached a conclusion as to the approximate

area which the Hopis occupied in connection with their villages during the period in suit, 1848 to 1868?

MR. BOYDEN: May it please the Commission, from this question, it is perfectly obvious that I have been brought into this lawsuit under a misrepresentation to me that we weren't going to talk about this. Now they are going right ahead with the trial of the rest of this without me being prepared, and I don't think it is fair.

CHIEF COMMISSIONER WITT: What is the purpose of that question, Mr. Sonosky?

MR. SONOSKY: Well --

CHIEF COMMISSIONER WITT: It is not an issue in this case.

MR. SONOSKY: Sure it is an issue in this case.

CHIEF COMMISSIONER WITT: In what respect?

MR. SONOSKY: One of the questions in this case is whether or not the consideration for which the transfer was made between the Navajos and the United States was unconscionable.

MR. BOYDEN: Did you tell the court that when we stipulated?

MR. SONOSKY: I wasn't here.

Let me finish this.

I take it one of the things the Commission has to determine is how much land the Navajos surrendered to the

United States by the Treaty of 1868 in order to determine whether the consideration agreed upon in that treaty was conscionable or unconscionable. In order to do that, we have to know how many acres there were inside of this black area.

Now, once that determination is made, so far as the area inside the reservation is concerned, we make no claim for that; but it is an issue in this case as to just what the Navajos surrendered to the United States.

Within this area, in terms of acres, there is a gross of 40,851,000 acres, which we say the Navajos ceded to the United States, from which there must be deducted any of the overlaps covered by the Spanish grants, which we do not claim, and any area which the Hopis may have occupied.

Now, the Spanish grants take care of all the other pueblos that were inside this black line -- the Acomas, the Lagunas and others.

CHIEF COMMISSIONER WITTE: What was the consideration for the cession?

MR. SONOSKY: This is one of those treaties where, unfortunately, you can't put your finger on just what the consideration was.

It provided for certain buildings, and then provided for certain rations, and --

COMMISSIONER WITTE: Does that continue down to the

question. Before they get an award they must show the consideration received was unconscionable.

MR. LUNDIN: Yes, but in order to proceed to the second step the Commission must decide in the first instance which portion, if any, or all of the area enclosed within the black line were the lands which the Navajos relinquished at the time of the 1868 treaty.

Now, those lands include, admittedly, areas upon which other tribes resided, whether small, such as the Pueblo, or large.

Now, it makes a big difference to the defendant if the Commission, let's say, should find that the Navajos did not have aboriginal title to a big area around here -- I am not giving any specific area -- because that would reduce the area, Number 1, that the Navajos had Indian title to and, secondly, it would render it highly unlikely that these wild, roving Indians as of those days stopped here and then jumped and started here again. It may be true of conditions today, but it was highly unlikely of conditions in those early days. Therefore, if the Commission would find that there is a substantial area to which the Hopis have no Indian title in this area, they could have a great deal of difficulty, it seems to me, to find that the Navajos had any aboriginal title west of that area.

CHIEF COMMISSONER WITT: All right. Repeat the question.

By Mr. Sonesky:

Q In your testimony, Doctor, you testified that the Hopis lived in villages on the mesa within the area shown on Plaintiffs' Exhibit 510 as the Executive Order Reservation of 1882. Can you please state the approximate size of the area which, in your opinion, was occupied by the Hopis during the period in suit?

A There is a great deal of documentation available -- not all of which is in our exhibits -- which bear on this point.

The historical record shows that for the period in question --

CHIEF COMMISSIONER WITT: What period are you talking about?

THE WITNESS: Eighteen forty-six to 1868.

CHIEF COMMISSIONER WITT: All right.

THE WITNESS: -- that for the period in suit the Hopis lived on the seven pueblos, which is not questioned by Mr. Boyden, I believe, and the documents show also that they occupied only a small area surrounding these pueblos, usually enough -- they would not go any farther away than they could take their sheep out in the morning and come back again the same day.

MR. BOYDEN: Since the witness has taken the liberty of saying what I stipulate, I want it clearly understood there is no stipulation with respect to this part of his testimony at all.

They do live on the mesas. That is as far as I go.

CHIEF COMMISSSTONER WITT: The record will show --

MR. SONOSKY: I thought earlier you had stated they lived in seven villages at this period we were talking about.

CHIEF COMMISSIQNER WITT: The stipulation will speak for itself.

MR. BOYDEN: That doesn't make any difference. There is a little question about when some of the villages were established, and I don't want to get that technical about it.

CHIEF COMMISSSTONER WITT: The witness will proceed.

THE WITNESS: You asked me to define the approximate extent then of the --

MR. SONOSKY: I asked you if you can give us an estimate of the acreage.

THE WITNESS: Yes; I can.

I would estimate the area used by the Hopis in the period of approximately 1846 to 1868 was perhaps 350,000 to 400,000 acres.

By Mr. Sonosky:

Q And those acres would be in the vicinity of their villages?

A That's correct.

CHIEF COMMISSIONER WITT: What was the population of the Hopi Tribe at that time?

THE WITNESS: Approximately 2,000.

It varies a little bit -- 1900, 2,000, 2100. There are various figures depending on the year and the disease, but it is approximately 2,000.

COMMISSIONER WAPKINS: Give me again the period of time you are talking about.

COMMISSIONER HOLF: Forty-eight to '68.

THE WITNESS: Forty-eight to '68.

CHIEF COMMISSIONER WITT: Forty-six to '68.

THE WITNESS: Forty-six to '68.

CHIEF COMMISSIONER WITT: Had they occupied that territory there, those villages, the land they then occupied, for a considerable period of time?

THE WITNESS: Yes, sir.

By Mr. Sonosky:

Q The Hopis have a long history of occupation --

A They have. They were found there first by the Spaniards in 1540, and they continued to live on the same mesa heights right down to the time of the American conquest

of the Southwest in 1846, and they live there to this day.

CHIEF COMMISSIONER WITT: They did not undertake to use or claim any lands except that you include in the 350,000-400,000 acres?

THE WITNESS: The historical record shows, your Honor, they used a relatively small area surrounding the pueblos, which I estimate at approximately 350,000 to 400,000 acres.

CHIEF COMMISSIONER WITT: And they didn't make periodic trips to lands surrounding that area for seasonal foods or hunting or fishing?

THE WITNESS: I think not.

They might have made visits to religious shrines, but Professor Kluckhohn will deal with that subject. I am not competent to deal with that, but for their livelihood I believe they subsisted on their sheep and their garden patches within this area.

By Mr. Sonosky:

Q Doctor, directing your attention to the Acoma and Lagunas on the eastern line, -- and you testified that the Acomas and Lagunas each held a Spanish grant -- apart from the Spanish grant which was held by the Acoma Pueblo and Laguna Pueblo, was any part of the country which those two tribes claimed possessed or controlled by the Acomas or Lagunas?

dg  
it might save time if we could put those in the first thing tomorrow morning.

CHIEF COMMISSIONER WITT: Beg pardon.

MR. SONOSKY: The witness is having difficulty locating his references to the exhibits which I asked him to put in the record in support of the statement on the Acoma and Laguna, and I think that would be all --

MR. BOYDEN: It might also save time because I am going to ask for the documents upon which the witness bases his testimony that there were no Hopis in that area in conflict and that the Navajos occupied it -- if we could get those, it would help, too.

MR. SONOSKY: We can do that the first thing in the morning.

CHIEF COMMISSIONER WITT: All right.

COMMISSIONER WATKINS: Do you want to recess then?

MR. SONOSKY: With the Commission's permission, I think it is just as well; otherwise we will spend our time looking for these things.

COMMISSIONER HOLT: You have an additional one to get, anyhow.

MR. SONOSKY: Yes.

CHIEF COMMISSIONER WITT: The Commission will recess until 10 o'clock in the morning.

(Thereupon, the hearing recessed at 4:02 p.m., to reconvene at 10 a.m., Wednesday, January 27, 1960.)

**INDIAN CLAIMS COMMISSION**

Washington, D. C.  
Jan. 27, 1960

THE NAVAJO INDIAN TRIBE and  
THE HOPI INDIAN TRIBE, et al,

**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**

**Defendant,**

Docket No. 229,  
196.

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 George  
 05 am

P R O C E E D I N G S

CHIEF COMMISSIONER WITT: Are we ready to proceed, gentlemen?

MR. SONOSKY: Yes, your Honor.

CHIEF COMMISSIONER WITT: Proceed.

Thereupon

GEORGE P. HAMMOND

resumed the stand and, having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION (Continued)

By Mr. Sonosky:

Q Dr. Hammond, yesterday at the recess you were asked to come back this morning and read into the record the exhibits with respect to the Hopi claim and also with respect to the Acoma-Laguna overlap and the Zia-Junda overlap on the eastern line. Would you please read those exhibit numbers into the record?

A Which would you like to have first?

Q Take the Hopi first.

A The Hopi first.

MR. BOYDEN: That is too broad.

What do you mean -- "the Hopi" -- so we will know what you are talking about?

MR. SONOSKY: Yesterday, Mr. Boyden, you asked that the witness read into the record the exhibit numbers

4 relating to the Hopi area inside of the 1882 Executive Order Reservation, and the witness yesterday pinpointed his location of the Hopis in the villages and gave an estimate of acreage, I think, between 350,000 and 400,000 acres.

What is it that you wanted?

MR. BOYDEN: I wanted to know about the area that is in conflict down here that we are talking about.

I want to know two things.

I can ask it on cross examination.

It will probably save time if you want to put it in this way.

I want to know what exhibits he has that show the Navajos were in this disputed area prior to 1848, -- and by "the disputed area" I mean that north of the <sup>Litte</sup> Colorado River and the Zuni River and south of the Navajo Reservation -- and then I want his exhibits that show the absence of any Hopis in there at that time, too.

MR. SONOSKY: On your first question, I didn't understand that yesterday because, of course, that is his entire testimony here and the exhibits which were served on you some 30 days ago, more than 30 days ago, were made available.

I don't know that the Doctor can do what you are asking him to do this morning without again going through

5 all the exhibits because during the course of his testimony, especially when he dealt with the southern border, that is precisely what he did.

He gave you the exhibit numbers relating to the southern border and to that area to the north of the southern border. .

MR. BOYDEN: Well, I will ask him some questions.

MR. SONOSKY: So, you ask him on cross examination.

MR. BOYDEN: All right.

By Mr. Sonosky:

Q Do you want to read those exhibits in the record?

MR. LUNDIN: Wait a minute.

MR. SONOSKY: Unless you don't want them.

MR. BOYDEN: No. Let me know what they are, for sure.

These are the exhibits that show what in the Executive Order Reservation?

MR. SONOSKY: Doctor, would you --

THE WITNESS: These are the exhibits that show the presence of Navajos in and around the Executive Order Reservation, among the present exhibits.

MR. BOYDEN: At what time?

CHIEF COMMISSIONER WITT: "In and around" -- do you mean that language to include the land to the south of

6 the reservation that is <sup>m</sup> controversy between the Hopis and the Navajos?

THE WITNESS: They might have some bearing on that; yes.

CHIEF COMMISSIONER WITT: Give the numbers of the exhibits.

By Mr. Sonosky:

Q Now, Dr. Hammond, if you will turn to this map for a minute, I think the Commissioner had in mind this area to the south of the reservation, the disputed area.

Do these exhibits that you are about to read the numbers of relate to the area particularly to the south of the Navajo Reservation?

A I am sorry. I misunderstood your question. I thought you had reference to the Executive Order Reservation.

CHIEF COMMISSIONER WITT: I said to the land that is now in controversy in this lawsuit between the Navajos and the Hopis.

If you will read my question, it will show that is what was stated.

MR. SONOSKY: Yes. I understood it.

CHIEF COMMISSIONER WITT: Do these exhibits refer to that territory?

THE WITNESS: No; they do not.

A You are asking me if it was sent in by the same governor?

Q Yes.

A It was.

Q Isn't it a fair assumption, Doctor, that if he knew nothing about it when he sent in 507, he also knew nothing about it two years earlier?

A I would answer that that it is a question of which pueblos he is thinking of. On the first map you will note he did not draw a boundary line of the Moqui pueblos. On the second he does. He probably was referring to the Pima Indians in southern Arizona. That would be my answer.

Q Let's not confuse the question now.

A That is explaining the question, I think, rather than confusing it.

Q All right, let's see who is confusing this.

The second exhibit, 157. Merrivether says that he doesn't know anything about the claim of the Moquis, doesn't he?

A His specific language is, as you read it, "The red lines enclosing the pueblos of Moqui, San Xavia and the Pinos are not intended to indicate the boundaries of their claims, as I have no information as to the extent of such boundaries thereof."

CHIEF COMMISSIONER WITT: If he didn't know at

Guadalupe-Hidalgo, isn't it?

A This was 1858, did you say?

Q . In 1860, a year after, a large body of Navajos fled in the direction of the Moqui villages in the Little Colorado, didn't they, as shown in your Exhibit 251, Page 2? It is the third paragraph down, and the first sentence. A large body of them fled in the direction of the Moqui villages and the Colorado Chiquito, or the Little Colorado.

A Did you ask me a question?

Q I just asked you if that is not so.

A It so states here.

Q That is 12 years after the Treaty of Guadalupe-Hidalgo; is that right?

A That is correct.

Q Is there any question in your mind from which way they were fleeing? Were they fleeing west or were they fleeing east?

A With respect to the first part, the direction of the Moqui villages, I think the assumption would be from the east.

Q Doesn't it illustrate, Doctor, in Exhibit 271, Page 2, that the pressure was all from the east generally, and that in setting up the treaty that they attempted to set up at that time the only boundary they set was on the east of the Navajos?

in other words, in the sense of modern American towns or villages or in the sense that the Pueblo Indians, for example, lived in particular centers and always came back to those particular centers. There is a difference.

COMMISSIONER WATKINS: Well, they went out, usually built their hogan somewhere near where they would find food for their sheep --

THE WITNESS: And water.

COMMISSIONER WATKINS: -- and, I assume, water, --

THE WITNESS: Yes.

COMMISSIONER WATKINS: -- but they had to haul water, as I understand it, --

THE WITNESS: Yes.

COMMISSIONER WATKINS: -- great distances.

THE WITNESS: Yes.

COMMISSIONER WATKINS: At least many of them had to do that.

By Mr. Boyden:

Q Doctor, from your description of the Hopis, I take it during the period you covered they were just all nestled right there in a little, small area of not more than about 400,000 acres in the middle of that Executive Order Reservation and didn't go out for any substantial purposes?

Is that your testimony?

A I believe the first part of your statement is entirely correct -- that we find in the record that they lived in their villages and that they would herd their sheep at only short distances from the village, a short enough distance so they could come back again at night and put them up in a pen in the village.

Q I will ask you if the Hopis haven't herded cattle and sheep in this canyon right here out from Winslow until very recent years.

A I have never, in the documents, found a reference to that fact, if it is a fact.

Q I see.

A Not one, not that I am conscious of.

Q I am not going to look up those exhibits now. I am going to ask you two or three things that you might have found nothing about, but I would like to know.

Do you know where they gathered their wood?

A Well, if it appears in the record, I don't remember; but I assume it would be north of the towns, up toward --

Q Let's not assume.

A Okay.

Q If you don't know, just say you don't know.

A Very good.

Q And that you have made a study of, haven't you?

A As you know, we have begun a detailed study of the Hopis, of this Hopi case, the Hopi-Navajo case, that will be heard in the three-judge court. A great many of those documents have been selected; others are being selected. That study will be made in the next few months.

Q Of course, Doctor, that is 1888, isn't it, or 1882 is where that starts?

Isn't that right?

A The documents don't start in 1882; no, sir.

Q Well, at any rate --

A There are records, particularly from the date when the first American Indian Agents went out there and began to make regular reports on the Hopis. From that time on, we do have a growing documentation explaining the life and conditions to a considerable extent of the Hopi Indians.

Q Now, then, Doctor, may we say this, and I will leave this subject: When you described the area of the Hopi as 400,000 acres, you did not take into consideration the gathering of wood or other fuel; you did not take into consideration the gathering of driftwood, nor the gathering of food or greens or berries or pine nuts, nor securing building materials other than the stones and the rocks, nor did you take into consideration the gathering of the dyes,

28 nor did you take into consideration the plants and miner-  
5 al gathering for medicinal purposes, nor did you take in-  
to consideration the gathering of material for ceremonial  
purposes, nor the visiting or building of shrines for re-  
ligious purposes, nor did you take into consideration the  
hunting or the grazing?

Is that correct?

A Those subjects, Mr. Counsel, are being studied  
by members of our group, --

Q I understand that.

A -- and the fact I did not pay particular atten-  
tion to them does not mean that has not been studied.

Q I didn't say that.

I expect to get testimony with respect to this,  
but you have said the Hopis only used 400,000 acres, and  
all I am asking you is: You didn't take into considera-  
tion these things when you said that, did you?

A I did not because they do not appear in the  
historical record.

Q All right. Thank you.

Now, Doctor, I want to go back into a little of  
the early exploration into this country of the Hopi and the  
Navajo.

In 1846, Exhibit 501 --

I beg your pardon. Your statement was you didn't

A Correct.

Q Now, did they move with exactly the same freedom for all purposes after 1848 that they did prior to 1848?

A I think so.

You said the Hopis, didn't you?

Q I said the Hopis.

A And I think the records we have here, plus those that will be submitted, abundantly so testify.

Q That they moved with absolutely the same freedom before as they did after?

A Or lack of freedom.

COMMISSIONER WATKINS: Well, the same freedom.

It may be descriptive. It may not be.

By Mr. Boyden:

Q In other words, the increase in the Navajo population and the activities of the Army with the Navajos had absolutely no effect upon the Hopis?

A Well, now, that seems to be a loaded question, and that's why I'm reluctant to answer it.

Q It is difficult to answer after the way you answered the last one, I will admit, but I don't think it is loaded.

Just go on and answer the plain question I have asked you.

V.L. 1/2

PAGES 513-693

**INDIAN CLAIMS COMMISSION**

Washington, D. C.

Jan. 28, 1960

THE NAVAJO INDIAN TRIBE and  
THE HOPI INDIAN TRIBE, et al,

**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**

**Defendant,**

Docket No. 229,  
196.

**HART & HARKINS**  
SHORTHAND AND STENOGRAPHY REPORTING  
930 F STREET, N. W. WASHINGTON 4, D. C.  
NATIONAL 8-0343

SRP001063

and tell me whether it indicates thereon the location of the Navajos and the location of the Moquis.

Do you note the words "Navajo" and "Moquis" on the map?

A Yes.

Q Do they show the Navajos were amongst the Moquis or the Moquis were amongst the Navajos or are they separated?

A They are separated.

Q So, would you say that in the state of geographic knowledge in the Topographical Bureau in or about the year 1850 they were of the opinion that the Navajos and the Moquis were separate and apart and were separated by a distance, great or small?

A Yes.

Q That is correct, is it not?

That may not be the fact, but that is their view?

COMMISSIONER WATKINS: May we see the exhibit?

MR. LUNDIN: Yes, sir.

We will continue with our discussion of the other map in a moment.

By Mr. Lundin:

Q Dr. Hammond, Plaintiffs' Exhibit 503 is another sketch map prepared by Calhoun in 1849 suggesting localities for Indian agencies as part of a letter of October 14,

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**INDIAN CLAIMS COMMISSION**

Washington, D. C.

February 2, 1961

THE NAVAJO & HOPKI  
AND  
THE IRONY INDIAN TRIBES, et al,  
**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**  
**Defendant,**

Docket No.

200 and  
188

**HART & HARKINS**  
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NATIONAL B.0343

this period, that there is also evidence in the documents that at other times they behaved toward each other as friendly Indian groups. Here we have the Hopi and the Zuni advising the Navajos and, according to the testimony of Major Shaw, this advice of the Hopi and Zuni or other Indians was taken seriously by some Navajos.

I think, Mr. Sonosky, that is the general outline, as I would see it.

By Mr. Sonosky:

Q Where were the Hopi living during the period 1846 to 1868 and for a period prior to 1846?

A In the period 1846 to 1864 or 1865, at any rate, the documents indicate that the Hopis were sticking pretty close to their villages. I refer to the following exhibits:

Plaintiffs' Exhibit 57, 1850. The seven Moqui pueblos sent a deputation to Governor Calhoun complaining bitterly of the Navajos around their pueblos.

Plaintiffs' Exhibit 151. Major Kendrick tells of the isolation of the Hopi, of their timidity, of their ignorance. Hence he says they are a prey to the more rapacious wild tribes which entirely surround them.

COMMISSIONER WATKINS: Are you giving the dates of those?

their mesa tops. He also says as of this time, 1863, that they had little or no flocks of sheep, that they were surrounded by the Navajos.

*But by usual Navajo's were west of their present range (1870)*

Up to this point, I have been paraphrasing for brevity.

Now I want a direct quote:

"And what little they have is kept on the insecure tenure of forbearance on the part of the Navajos by whom they are surrounded."

COMMISSIONER WATKINS: Let me ask you this question: You said Colonel Carson said the Hopis were largely limited to the mesa tops?

THE WITNESS: Yes, sir.

COMMISSIONER WATKINS: Have you been on those mesa tops?

THE WITNESS: Yes, your Honor.

COMMISSIONER WATKINS: What is the acreage on those mesa tops? Have you any idea?

THE WITNESS: I can't offhand give an estimate in acres. There is some difference between the three mesas.

Second Mesa, which has three villages on it, is sizable.

COMMISSIONER WATKINS: What would it be -- 300 acres?

THE WITNESS: No, sir; considerably more than that.

COMMISSIONER WATKINS: Can you give us an educated guess on that?

By Mr. Sonosky:

Q Could you do it in terms of miles and then we could perhaps convert it into acres?

A I think Third Mesa -- no; I know that from one village on Third Mesa, namely, Oraibi, to another village on Third Mesa, Hotevilla, is at least seven miles. This is admittedly an educated guess, your Honors.

I would say Third Mesa is at least 10 miles by three miles, or something like that. I am just not sure. I have been there many times, but I haven't <sup>been</sup> there for about 10 years or more.

First Mesa, I think, is the smallest.

Second Mesa again is not in terms of a few hundred acres, which would be less than a square mile. Second Mesa must have an area, I would think, of at least 15 square miles. That is as close as I can come, your Honor.

COMMISSIONER WATKINS: My memory of one of them is that it had very little acreage.

THE WITNESS: I think that is the First Mesa,

of First Mesa near the present village of Polacca where the post office is.

My recollection is there is no spring on top of any of the three mesas. That is my recollection, but I wouldn't swear to it.

COMMISSIONER WATKINS: In other words, they couldn't exist just on those mesas alone, could they?

THE WITNESS: No, sir; not indefinitely. They could for periods if they had a water supply there.

COMMISSIONER WATKINS: Yes, if they had more land up there, too, they probably could exist. But, as I remember, you said there were something like 2,000 of them.

THE WITNESS: About 2500 in this period, your Honor, between the three mesas.

COMMISSIONER WATKINS: That large number would require a rather considerable water supply just for domestic use.

THE WITNESS: Yes, but that, of course, would be distributed between the three mesas.

COMMISSIONER WATKINS: I understand. Those mesas are even more barren, as a matter of fact, than the surrounding territory, aren't they?

THE WITNESS: Than much of the surrounding territory.

is in dispute?

MR. BOYDEN: You are speaking of the disputed area that we are talking about, that little piece now, or are you talking about the whole thing?

MR. SONOSKY: I think we are limiting ourselves to the disputed area.

THE WITNESS: This area in here you are referring to, Mr. Sonosky?

MR. SONOSKY: Yes.

COMMISSIONER WATKINS: The map had better show that.

MR. SONOSKY: You find that a number of times on the record as the Hopi-Navajo disputed area which lies south of the south line of the reservation down to the Little Colorado and Zuni.

*But there is more in dispute.*

THE WITNESS: By "occupy", I take it you mean permanent residence?

By Mr. Sonosky:

Q Did they live in it?

A To the best of my knowledge and belief, on the basis of my study of documents and so on, the Hopi did not live in this area of the 1846 to 1864 period.

Q Did they use that area for any purpose?

A I have not encountered any reference in the documents to Hopi use of this area in the 1846 to '68 period.

There are one or two references that I remember in the documents to Hopis being -- well, one that I referred to just a little while ago, the Carson document. It spoke of some Hopis down not very far from Zuni at the bottom of 6, more or less. It is not altogether clear what they were doing down there.

As I say, I have not encountered in the documents that I examined any reference to the Hopis in this disputed -- using this disputed area in the 1846 to '68 period. I do know from the literature, from the published literature, that a portion of this area, particularly around -- the country around Chambers, Arizona -- well, I don't think it is important enough for me to -- let's just say more generally I have read in the literature that the Hopi often hunted in a region or not far from Holbrook, Arizona, at the upper portion of 7.

As I say, I do not know of a reference in the documents in this period to the Hopis hunting here, but if one were to be produced to the effect that the Hopis had definitely hunted here at a certain time in this period, I wouldn't be terribly surprised.

If Hopis hunted outside of their villages or outside of the mesas where their permanent villages are and in the disputed area that you have just referred to, would they be hunting in country controlled by the Navajos?

*no Navajos in there until 1860s  
Yavapai for the  
Hopi - Mutton  
died in early 1860s  
man C. Hornum  
(Whipple it, at 1860s  
part 2, p. 76)*

✓ 1-13 (page = 1255 - 1275 were not numbered by reporter.)

PAGES 1111-1255.

1-13-61  
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# INDIAN CLAIMS COMMISSION

Washington, D. C.

February 3, 1960.

THE NAVAJO INDIAN TRIBE  
and  
THE HOPI INDIAN TRIBE, et al.  
**Petitioners,**

v.

**THE UNITED STATES OF AMERICA,**  
**Defendant,**

Docket No. 205 and 195

**HART & HARKINS**  
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NATIONAL B-0343

SRP001072

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COMMISSIONER WATKINS: I think Dr. Hammond, if I recall, said that the Hopis were there from the dawn of creation.

MR. SONOSKY: Yes; I think he did.

COMMISSIONER WATKINS: I asked him to document that.

COMMISSIONER HOLT: It seems to be agreed that, from our standpoint, what happened before the 1848 Treaty leads up to the time of the treaty, but the question is what the situation was when we acquired sovereignty.

MR. BOYDEN: The date 1868 has very little significance to the Hopi claim; 1848 is the date that I am interested in. It is a question, then, of what did we have at that time and the prior history and the details of that are very important to tell just when you have got sufficient penetration of Navajos into Hopi country to say they occupied it.

COMMISSIONER HOLT: In other words, if the Navajos, for illustration, pushed the Hopis out of some part of it after 1848, it wouldn't make any difference.

MR. BOYDEN: We are going to show partially by cross examination and partially by our own witnesses that even from the time 1848 when General Kearney came in here the pressure which Dr. Kluckhohn has said was commencing even with the 17th Century to push further west was on

5 with terrific intensity, before the war commenced in 1858.

The Navajos were leaving some parts of the country and going into the western part of the country. After 1848 there was a great migration of Navajos west. It explains a lot of these documents they put in after that date.

COMMISSIONER HOLT: In other words, I take it they were depriving Hopis of lands they held in 1848?

MR. BOYDEN: Yes, sir; that is our point.

MR. SONOSKY: That is their contention.

COMMISSIONER HOLT: I realize that.

MR. BOYDEN: That is a pretty good contention.

MR. SONOSKY: I am going to reserve my argument until the case is over. I am sure your Honors won't be influenced by these statements.

MR. LUNDIN: These statements are just so the Commission can understand the points we are driving at when we ask certain questions. I don't want to ask questions which the Commission might feel are irrelevant. If you understand what we are driving at or what purposes we have in mind, I feel your Honors can better appreciate why we are asking these questions.

COMMISSIONER WATKINS: I can understand it.

I think, if I remember correctly, Dr. Hammond,

A No, sir, with the stipulation, of course, going back far enough.

Q Yes.

A Yes.

Q That is what I say.

A Yes.

Q Going back considerably further.

A Yes. No question.

Q Now, in this area that I point to here, Doctor, along the Little Colorado River, --

A Yes.

Q -- Winslow to Holbrook, --

A Yes.

Q -- and in that area, --

A Yes.

Q -- there are some known structures in there that are definitely Hopi, are there not?

A Yes, sir.

Q I am not trying to qualify you as an Hopi expert, --

A No.

Q -- but these are matters that are generally acknowledged by students of anthropology, are they not?

A Yes, sir.

Q And when you get to the Woodruff area, Woodruff Bluff or Woodruff Mountain, right next to the Town of

5

Woodruff, there is an old ruins there that perhaps goes back to two or 300 A. D.?

A So I am told.

Q They haven't yet been able to connect that up definitely with the Hopi ancestry, have they?

A Not to my knowledge.

Q This connection with this group in here, though, does connect up with the later moves of ruins that are found within what we call the Hopi Executive Order Reservation and thence to the Hopi villages where they live now?

A That is my understanding.

Q Doctor, you are also aware that the Hopis have a very definite religious belief which connects them with their ancestors and with their former residences?

A I am aware of that, sir.

Q And so that, even today, after these centuries, the Hopis return to these various ruins?

A Yes.

Q And if you were to go there tomorrow you are apt to find fresh feathers and brush prayer sticks where the Hopis from these villages have visited on these spots down along the Little Colorado River?

A Yes.

Q Isn't it also true that the favorite turtle

hunting ground for the Hopis is on one of the rivers that runs into the Little Colorado?

A Yes.

Q In what we have called the disputed area?

COMMISSIONER HOLT: Doctor, you will have to say "yes".

COMMISSIONER WATKINS: The nod doesn't get in the record.

THE WITNESS: Oh, I beg your pardon.

I do not know this of direct knowledge, but so I have heard.

By Mr. Boyden:

Q In returning to these religious shrines, the Navajos, knowing, as you do, Indian people, would naturally hunt or gather greens or anything else that they needed in their Indian way of life, would they not?

A You are speaking now, sir, as of the present time when they come down to --

Q Just any time.

When they are returning, they would do all that they could, wouldn't they?

A They would do all that they could.

It would be my opinion at certain times, when there was trouble between the Navajos and the Hopis, when they were afraid of the Navajos, that they probably would

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not dally very much. They might carry out certain religious functions, but if they were concerned about Navajos at that time they wouldn't waste a great deal of time on the trip.

7 Q Until the Navajos came in in great numbers we do know that the area, the disputed area, north of the Little Colorado River and continuing up into what is presently the Navajo Reservation and perhaps the south line of the Executive Order Reservation was a favorite hunting ground, was it not?

A Would you be kind enough to be a little more specific as to the time that you have in mind?

You say the time when the Navajo entered in great numbers. If you could tell me roughly the time you have in mind there --

Q I don't think, Doctor, I can be that specific.

Let's put it this way: There are men alive today, are there not, who can remember when there were still some of the big game in this country -- 80 and 90 years of age?

COMMISSIONER WATKINS: Which area are you speaking of now?

MR. BOYDEN: I am speaking now of this country I have described in my previous question.

THE WITNESS: I believe so; yes, sir.