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The Treaty of St. Louis and Black Hawk's Bitterness

JOHN K. FLANAGAN

INTRODUCTION

In the process of expanding the American West, officials of the United States government negotiated and signed many treaties to obtain land from Indian tribes. Sometimes, more than one treaty was made with the same tribe regarding adjacent land after it was discovered by the government that the previous treaty gave too much land to the Indians.¹ Arguably, many of these treaties involved a form of fraud or coercion on the part of government officials. One example of how lands were obtained by fraud is the Treaty of St. Louis.² The treaty was signed by the Indiana Territory Governor, William Henry Harrison, and five members of the Sac Tribe.³ The Treaty gave approximately 51 million acres in the Mississippi Valley, including a large portion of northwestern Illinois and small portions of each of southwestern Wisconsin and northeastern Missouri, to the United States.⁴ The Sac and Fox tribes received about twenty-two hundred dollars in goods and an annuity of one thousand dollars in goods.⁵

The five Sacs, however, were not authorized to sign on behalf of the tribe.⁶ One or more of the Sacs who signed had also been drinking alcohol given to them by the same government officials they were visiting in St. Louis.⁷ Further, no members of the Fox tribe were present during the treaty-making process.⁸ This article focuses on the reasons why Black Hawk, a Sac leader during much of the first third of the nineteenth century, and other Sacs and Foxes developed bitterness toward Americans and why their resentment was justified. This article suggests that the Treaty of St. Louis was the primary cause of Black Hawk's bitterness and further suggests that Black Hawk and

1. See, e.g., the cessions of lands from treaties made between the United States and the Sac and Fox tribes in 1804, 1832, 1837, and 1842.

2. Treaty Between the United States of America and the United Tribes of the Sac and Fox Indians, Nov. 3, 1804, 7 Stat. 84 [hereinafter Treaty of St. Louis].

3. *Id.*

4. *Id.* art. II., 7 Stat. at 84-85.

5. *Id.* arts. II-III, 7 Stat. at 84-85.

6. BLACK HAWK: AN AUTOBIOGRAPHY 60-64 (Donald Jackson ed., 1955); CECIL EBY, "THAT DISGRACEFUL AFFAIR," THE BLACK HAWK WAR 44-49 (1973); ALLAN W. ECKERT, TWILIGHT OF EMPIRE 61-67, 635 (1989).

7. EBY, *supra* note 6, at 44-49.

8. *Id.*

other Sacs and Foxes had a basis for their resulting hostility toward the developing United States, which culminated in the Black Hawk War of 1832.

I. THEIR JUSTIFICATION

In our nation's past, many Indian leaders like Black Hawk were involved in the killing of Americans. For this reason, many of these leaders have been thought of by white Americans as brutal, demented savages bent on keeping whites from taking their lands and changing their way of life. For much of American history, whites have believed it was necessary to get rid of or to confine Indians because they were thought to be dangerous and inhibitory to forming a strong, peaceful, and freedom-loving country. Indians and their way of life did not appear to be consistent with the expansion of a predominately European-derived country extending across the North American continent. Treaties were made and wars were fought in order to accomplish the objectives of eradication and confinement of Indians and the formation of one great country.

Americans rarely made permanent concessions to Indians with an eye towards living in harmony with them and perhaps ultimately forming a united country together where Indians and white people could live together without allowing their differences to get in the way of their similarities as fellow human beings. More often than not, the government made treaties that were substantially advantageous to the Americans and disadvantageous to the Indians. An example of such an agreement was, as mentioned, the Treaty of St. Louis, made in 1804 between the United States and the Sac and Fox tribes and where 51 million acres of the Mississippi Valley were acquired by the Americans for a relatively small amount in goods.⁹ What was so particularly awful about this treaty was not simply its terms but how the deal was achieved and what effect it had on those who were not party to the proceedings.

It was known to government officials that the Sacs wanted to make a treaty with the United States for more than one reason. On the one hand, the Sacs desired to receive an annuity, though they did not expect to give up any lands in order to receive one because they were accustomed to the British providing them with gifts in exchange for their loyalty against the Americans.¹⁰ On the other hand, the Sacs desired to be protected against the Osages, who had made friends with the Americans and who were enemies of the Sacs.¹¹ The Sacs wanted a treaty that would put them on "equal footing"

9. See Treaty of St. Louis, *supra* note 2, arts. II-III, 7 Stat. at 84-85; see also *supra* text accompanying notes 3-5.

10. BLACK HAWK: AN AUTOBIOGRAPHY, *supra* note 6, at 62.

11. WILLIAM T. HAGAN, THE SAC AND FOX INDIANS 21 (1958).

with other tribes under the protection of the Americans.¹² It appears, then, that around 1804 the Sacs were willing to make some type of agreement with the United States.

Three or four whites were killed in an incident between some squatters and either a Sac or Fox Indian during the summer of 1804 along the Cuivre River within what was considered Sac and Fox territory at the time.¹³ Though not entirely the fault of the Indians present, the conflict became known as the "Cuivre River Massacre" and provided Governor Harrison with an opportunity to make a treaty with the Sacs and Foxes.¹⁴ The Sac or Fox responsible for one or more of the killings at Cuivre River was taken into custody by the Americans. Government officials notified the Sacs that they needed to send some chiefs to St. Louis.¹⁵ The Sacs held a council and sent four men to St. Louis.¹⁶ The Sacs did not appear to think that anything but the Cuivre River killings would be discussed in St. Louis with the government officials.¹⁷ The meeting would instead focus on a cession of lands to the United States.

These four men and a fifth man, presumably also a Sac, would sign the Treaty of St. Louis.¹⁸ None of these men were any of the principal chiefs of either the Sac or Fox tribes.¹⁹ The government officials must have known these chiefs were minor in their tribal positions. The treaty was also never seen by a tribal council for approval by the appropriate representatives of the tribes.²⁰ These men were simply not authorized by the Sac or Fox tribes to give up the 51 million acres that were the subject of the treaty.²¹ The tribes had never before sold land to the United States and the five men were likely ignorant of the true value of the land they were supposedly selling.²² Further, as mentioned, these men had been drinking alcohol and one or more of them were likely drunk at the time they placed their marks on the treaty.²³ Later, other Sacs and Foxes would also believe that the men were intoxicated during

12. *Id.* at 17.

13. EBY, *supra* note 6, at 44.

14. *Id.* at 44-45.

15. BLACK HAWK: AN AUTOBIOGRAPHY, *supra* note 6, at 62-63.

16. *Id.* at 60.

17. *Id.* at 60, 62.

18. EBY, *supra* note 6, at 46.

19. *Id.* at 47.

20. *Id.*

21. HAGAN, *supra* note 11, at 22.

22. *Id.* at 23.

23. EBY, *supra* note 6.

their stay in St. Louis.²⁴ Under U.S. law and Indian customs, this treaty should never have been made or should never have been held to have any validity.²⁵

The treaty ceded land including the village of Saukenuk along the Rock River near the Mississippi River. Saukenuk was the home of Black Hawk. Neither Black Hawk nor the principal chiefs at the time agreed to or even understood the extent of the Treaty of St. Louis. Had Black Hawk known that the treaty gave up the site of Saukenuk, he would not have confirmed the treaty in 1816.²⁶

For several years, from 1816 onward, both the Sacs and Foxes denied the validity of the treaty.²⁷ In 1828, the Sacs and Foxes also denied having sold any land north of the mouth of the Rock River.²⁸ Black Hawk especially denied a sale and declared that whites would say one thing and put another on paper.²⁹ He claimed the subject of land had not been broached to him in 1816 and he also accused the commissioners of secretly including the Rock River in the treaty.³⁰ The treaty caused strife and led to three decades of conflict. As Black Hawk later stated about the treaty in his autobiography, "It has been the origin of all our difficulties."³¹ The last resulting confrontation was war in 1832.

CONCLUSION

Though arguably minor in comparison to other conflicts in American history, the Black Hawk War did result in the deaths of more than 70 whites and between 450 and 600 Indians.³² It brought an end to the freedom of Sacs and Foxes as they knew it before the Treaty of St. Louis. Though it has been the view of some that the Sacs and Foxes had always been hostile toward the United States,³³ Black Hawk claimed that it had always been their "custom to receive all strangers that come to our village or camps, in time of peace, to share with them the best provisions we have, and give them all the assistance in our power."³⁴ Hatred was not inherent in the nature of Black Hawk and

24. HAGAN, *supra* note 11, at 22.

25. EBY, *supra* note 6, at 47.

26. HAGAN, *supra* note 11, at 82.

27. *Id.* at 91.

28. *Id.* at 107.

29. *Id.* at 110.

30. *Id.*

31. BLACK HAWK: AN AUTOBIOGRAPHY, *supra* note 6, at 62.

32. EBY, *supra* note 6, at 17.

33. See, e.g., HENRY SMITH, THE EXPEDITION AGAINST THE SAUK AND FOX INDIANS, 1832, at 3 (1973).

34. BLACK HAWK: AN AUTOBIOGRAPHY, *supra* note 6, at 180.

other Sacs and Foxes, but rather was created by the extortion underlying the Treaty of St. Louis in 1804. Now, looking back, who can blame Black Hawk and other Sacs and Foxes for their bitterness?

