

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE NATION,)	
)	
Petitioner,)	
)	
v.)	Docket No. 53
)	
THE UNITED STATES,)	
)	
Defendant.)	

Decided April 22, 1952

Appearances:

Roy St. Lewis, with whom was
Paul M. Niebell,
Attorneys for Petitioner.

Maurice H. Cooperman, with whom was
Mr. Assistant Attorney General
Wm. Amory Underhill,
Attorneys for Defendant.

FINDINGS OF FACT

The Commission makes the following findings of fact:

1. The petitioner, The Seminole Nation of Indians, is a tribe of American Indians residing within the territorial limites of the United States, and has a tribal organization representative of said Seminole Nation, recognized as such by the Secretary of the Interior.

2. By Article 15 of the treaty between the United States and the Seminole Nation, dated August 7, 1856, it was agreed:

* * * The Seminoles shall be secured in the unrestricted right of self-government and full jurisdiction over persons and property within their * * * limits.

Following the Civil War, during which the Seminoles threw off their allegiance to the United States and entered into a treaty with the Confederacy, the United States and the Nation entered into a treaty dated March 21, 1866, in which the foregoing rights of self-government were reaffirmed.

At all times hereinafter mentioned the petitioner was a self-governing tribe with a legislative body composed of 42 members which was known as the General Council. (Ex. 61, p. 2).

3. On April 23, 1897 (Ex. 13(b)) the General Council (sometimes referred to as National Council) of the Seminole Nation passed an act containing the following provisions:

SECTION 1. That A. J. Brown, Thos. McGeisey, Thos. Factor, W. L. Joseph and Dorsey Fife be and are hereby appointed as Townsite Commissioners for the Seminole Nation, and their term of office shall continue for four years and until their successors are appointed by the General Council and qualified.
* * *

SEC. 2. That said Commission shall select a suitable tract or tracts of land in the Seminole Nation, not exceeding six hundred and forty acres, for a town to be known and designated as Wewoka. And when selected the said commissioners shall cause the same to be surveyed and divided into lots, blocks, streets and alleys of suitable width and size for residence and building purposes, and have the same numbered and platted according to the usual plan adopted by the United States for laying out and establishing townsites.
* * *

SEC. 3. Should any or all of the lands selected by said Commission for purposes herein mentioned, be owned, occupied, or claimed by any member of the Seminole Nation for business, agricultural or grazing purposes, or as a home or for any other legitimate purpose, then, and in that event, the said commission shall before entering upon such land, for the purpose of using them as a townsite, make and enter into a contract or agreement with such person or persons, for the relinquishment of their right and title to the same, and in consideration thereof, the said commissioners shall have the right, and they

are hereby empowered to grant and relenquish to such person or persons, owning, occupying or claiming said lands, an interest in said town, equivalent to one-fourth the entire number of acres, which they may own, occupy or claim, provided that such person or persons shall have the right and privilege of selecting in said town the said one-fourth interest, subject to the approval of the said commission, which selection shall include any buildings that may at the time belong to such person or persons.

SEC. 4. That a description of the tracts of land which may be selected by said Commissioners for the purpose aforesaid, according to the United States survey of the same, shall be reported to the National Council with a plat of the town, showing the survey of the same into lots, blocks, streets and alleys, and also the blocks or squares for parks and public buildings, whereupon the president and secretary of the said National Council, with the approval of the principal chief of the Seminole Nation, shall convey the tracts of land so selected and reported in trust to the said Commissioners, who shall have the general management of the said town.

The said Commission shall have power to sell or lease the said town lots upon such terms and conditions and for such considerations as they may deem proper, and to execute leases as in their judgment may be for the best interests of the said town, the Seminole Nation and people. Provided, that no sale shall be made to non-citizens, whether Indians by blood or otherwise, until the tribal organization as such shall cease to exist, and provided that no transfer of the title of lots shall be made to any person or persons except upon the condition that a building or buildings, or other valuable improvements shall be erected thereon within six months from date of lease or purchase of such lot or lots. Provided, that said Commissioners may in their discretion, for good cause shown, extend the time for the completion of such building, buildings or improvements.

4. Pursuant to the Act of April 23, 1897, set forth in Finding No. 3, the Townsite Commissioners named therein, selected 640 acres of Seminole land and caused the same to be surveyed and platted into 4234 lots. (Ex. 59). The tract selected was acquired from A. J. Brown, one of the townsite Commissioners, who, under Section 3 of said act was entitled to one-fourth interest in the townsite.

The Council of the Nation approved the selection of the tract and the survey and plat thereof on the 7th day of July, 1897, and on

the same day caused the tract to be conveyed to the Townsite Commissioners in trust for the uses and purposes specified in the Act of April 23, 1897. (Ex. 8, entries 2 and 3).

5. On December 22, 1897, the Townsite Commissioners (excepting A. J. Brown) conveyed part of the townsite of Wewoka to said A. J. Brown, and on the same day all of the Townsite Commissioners conveyed to John F. Brown (brother of A. J. Brown) and said A. J. Brown, certain additional lots and parcels of said townsite, so that said John F. and A. J. Brown acquired 1102 lots of said townsite. Said conveyances were by deeds and it was recited therein that the grantees "held or claimed a part of the lands selected for the town of Wewoka, in lieu of the lands so held by him (or them) under Section 3 of said act of the Seminole General Council April 23, 1897." Said conveyances also contained this provision: "Subject to the terms, conditions and limitations of said act of the General Council of the Seminole Nation passed and approved April 23, 1897." In the deed to John F. and A. J. Brown those grantees accepted the conditions and limitations expressed therein. At the time of said last-mentioned conveyance one of the grantees, John F. Brown, was principal chief of the Seminole Nation. (Ex. 8, entries 4 and 5).

6. On December 16, 1897, the United States and the Seminole Nation concluded an agreement, generally referred to as the Dawes Agreement, providing, among other things, for the allotment of the Seminole tribal lands; it also contained these provisions:

The townsite of Wewoka shall be controlled and disposed of according to the provisions of an act of the General Council of the Seminole Nation, approved April 23d, 1897, relative thereto; and on extinguishment of the tribal government, deeds of conveyance shall issue to owners of lots as

herein provided for allottees; and all lots remaining unsold at that time may be sold in such manner as may be prescribed by the Secretary of the Interior.

This agreement was approved by the Seminole General Council on December 29, 1897 (Ex. 8, entry 6), but was not ratified by Congress until July 1, 1898, 30 Stat. 567. (Ex. 8, entry 6).

7. In February, 1900, John F. Brown, who was then principal chief of the Seminole Nation, submitted to the Townsite Commission a proposition on behalf of himself and his brother, A. J. Brown, to purchase all of the unsold lots in the Wewoka townsite for the sum of \$12,000. This proposition was accepted by the Townsite Commission and on February 12, 1900, the Townsite Commissioners, including A. J. Brown, conveyed "all the lots in the town of Wewoka, Indian Territory, which appear of record as being unsold or otherwise disposed of" to John F. Brown.

This conveyance contained this provision:

Subject to the conditions named in said Act as to blocks for parks and public buildings, the said John F. Brown not being required, however, to erect buildings or improvements on the property herein conveyed except as to him seems reasonable and practicable, but for good cause shown to us no definite time is named within which buildings or improvements shall be placed on said lots, and the same is hereby indefinitely extended.

And said conveyance was approved by the General Council of the Seminole Nation on April 18, 1900 by the following resolution adopted by the General Council:

Resolved, by the General Council of the Seminole Nation, this day in special session. That the contract and sale made to John F. Brown, whereby the town of Wewoka, I. T., was sold to said John F. Brown, by the Town-site Commissioners, A. J. Brown, Dorsey Fife, Thomas McGeisey and James H. Johnson, bearing date February 12th, A. D. 1900, for Twelve Thousand Dollars, be and hereby is accepted and ratified.

Resolved further, that the sum of Twelve Thousand

Dollars, so accepted, is hereby ordered to be added to the next installment of annuity, due and payable per capita to Seminoles, and shall be so paid by the Treasurer of the Seminole Nation.

The General Council accepted the consideration of \$12,000 and it was distributed per capita to the members of the Nation. (Ex. 28).

8. On March 20, 1900, John F. Brown conveyed to A. J. Brown an undivided half interest to all the unsold lots in the town of Wewoka, and on June 5, 1901, a deed specifically describing the lots conveyed by the deed of March 20, 1900, was executed by said John F. Brown. (Ex. 8 entries 11 and 12).

9. In October and December, 1903, the General Council of the Seminole Nation conducted an investigation of the handling of the Wewoka townsite by the Townsite Commission and on December 16, 1903, after examining members of the Townsite Commission, including A. J. Brown, adopted an act which reads as follows:

A N A C T
of
THE GENERAL COUNCIL OF THE SEMINOLE NATION.

BE IT ENACTED by the General Council of the Seminole Nation, assembled in Special Session at Wewoka, I. T., on this the sixteenth day of December, A. D., 1903; That the sale of the Townsite of Wewoka by the Townsite Commission was done in accordance with the law governing the same.

ADOPTED, this 16th day of December, 1903.

Okkoseke Miller
Chairman of the Council.

ATTEST:

T. S. McGeisey
Clerk of the Council.

Approved this 17th day of December, 1903.

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Hulputta x Micco
mark
Principal Chief of the Seminole
Nation.

Attest

A. S. McKennon
Jas. H. Johnson
(Exhibits 24 and 25)

10. As shown at a hearing before the Subcommittee of the Committee on Indian Affairs of the United States Senate (Ex. 2, pp. 90-93), there was under consideration an amendment to a bill for an appropriation for the current and contingent expenses of the Indian Department. The purpose of the amendment was to ratify and confirm the action of the General Council of the Seminole Nation of April 18, 1900. (Finding 7). At that hearing it was stated that the purpose of the amendment was to settle the title to the land in the Wewoka townsite. The following act was thereafter adopted and approved on March 3, 1905 (33 Stat. 1048, 1088):

That the resolution of the Seminole Council, passed and approved on April eighteenth, nineteen hundred, accepting and ratifying the contract and sale made by the Seminole townsite commissioners to John F. Brown, of the unsold lots in the town of Wewoka, Indian Territory, for the sum of twelve thousand dollars, and also providing for the distribution of the said money among the Seminole people per capita, be, and the same is hereby, ratified and confirmed."

EDGAR E. WITT
Chief Commissioner

LOUIS J. O'MARR
Associate Commissioner

WM. M. HOLT
Associate Commissioner