

## BEFORE THE INDIAN CLAIMS COMMISSION

THE YUCHI (EUCHEE) TRIBE OF INDIANS, )  
 and S. W. BROWN, LEGUS BROWN, - JACOB )  
 ROLLAND, WILLIE TIGER, FRED SKEETER, )  
 JOHN JAMES and JESSE JAMES, all )  
 members of said Tribe, band or group )  
 of Indians, for themselves and for )  
 the use and benefit of all other )  
 members of said YUCHI (EUCHEE) )  
 TRIBE, band or group of Indians, )

Claimants, )

v. )

Docket No. 172

THE UNITED STATES OF AMERICA, )

Defendant. )

Decided: May 16, 1955

FINDINGS OF FACT

The Commission makes the following Findings of Fact:

1. Before their incorporation into the Creek Nation the Yuchis were an independent ethnic group of Indians from those of the Muskogee which constituted the large majority of the tribes which originally composed the Creek Confederacy.

They were not the aboriginal owners of any lands which constituted the tribal domain of the Creek Nation in Georgia and Alabama. The town of Cofitachequi, formerly believed to be Yuchi, was the Muskogee town of Kasihta, one of the most ancient and influential towns of the Creek Nation. The Yuchis came into the Creek domain probably between 1733 and 1751.

2. In the early part of the eighteenth century the Yuchis split up into small groups, left their own territory in Tennessee and settled

among the Creeks and on Creek domain in Georgia and Alabama, and in West Florida. About 1761 the Florida group moved to the Upper Creek country and settled near Tuckabahchee. A second band, called Hogologe, settled on the Savannah River above Augusta. In 1716 they moved to the Chattahoochee with the Creeks, and thence to the Tallapoosa, settling near the Shawnee town among the Upper Creeks. After the Yamasee War a group of Yuchi left Tennessee and settled on Creek land along the Lower Savannah in Georgia, between Silver Bluff and Ebenezer Creek. In 1729 the Yuchi town was founded on the right bank of the Chattahoochee River in Creek territory, between the Lower Creek towns of Cowetuh Tallahassee and Ooseochee, and thereafter this group moved to this location and became consolidated into the well-known Yuchi town among the Lower Creeks.

3. The Muscogee Tribes which originally formed the Creek Confederacy later called the Creek Nation, were the aboriginal owners of practically all of the lands which now constitute the States of Georgia and Alabama. These tribes were occupants of this area when De Soto passed through their country in 1540. The Creek Confederacy was in existence in 1540, and was in a flourishing condition in 1670 when the English settled in South Carolina.

4. The Yuchi were incorporated into the Creek Confederacy by 1751, either by conquest, or as a means of self preservation.

By their incorporation into the Creek Nation they became known as a Lower Creek town, and were thereafter enrolled as such, and were under the general government of the Creek Nation and subject to its laws. They were permitted to have their own chiefs, and to retain their

own customs, and the right of local self government, as was the custom in the other Creek towns. In other words, they became a constituent part of the Creek Nation, and became for all intents and purposes Creek Indians losing the independence which they formerly enjoyed as an independent tribe. The tribes received by the Creeks became integral parts of the Creek Nation.

As a constituent member of the Creek Nation the Yuchis had the privilege of living and hunting anywhere on the Creek domain.

5. The government of the Creek Nation rested in the National Council, composed of the Chiefs of the several towns constituting the Creek Nation. Attendance of the chiefs at these councils was not compulsory. The original Muskogee, or "mother" towns, had the principal direction of national affairs. Councils were usually held once a year, or when occasion demanded, wherein matters affecting the nation were deliberated upon and decided by the Chiefs in attendance, and their decision was binding on the nation.

While the government of the Creek Nation was originally a loose organization, with the advent of the white man this government became centralized in the national council.

6. The Creek Nation had definite laws governing the cession of their lands. Originally title to the Creek domain was considered to be in the aboriginal Creek towns, yet with the centralization of the Creek Government title was considered to be in the Creek Nation as a whole.

No cessions of Creek domain could be made by any one or two towns, but could only be made when agreed to in council, and the consent of

the Creek National Council thus obtained.

In 1811 the Creek National Council passed a law prohibiting the sale of any Creek land without the consent of the national council, and providing a death penalty for any of the Chiefs of the towns who would violate that law. This law was binding upon the Chiefs of the tribal towns in the Creek Nation, and was in force at the time of the Treaty of Fort Jackson.

7. The Creek Nation has exercised the right of absolute sovereignty over all of these Creek lands in Georgia and Alabama, ever since the Yuchis were incorporated into the Creek Nation, which right was recognized by the United States in all of its dealings with the Creek Nation.

In 1733 and 1739 the Creek Nation executed two treaties with Oglethorpe, acting for the Colony of Georgia. In the Treaty of 1733 the Creek Nation ceded to the Colony large tracts of land between the Savannah and the Altamaha Rivers; and in the Treaty of 1739 it was declared that the lands therein described did by ancient right belong to the Creek Nation.

The Treaty of August 7, 1790 was executed by the United States with the Creek Nation, and in this treaty the United States solemnly guaranteed to the Creek Nation the lands southward and westward of the eastern boundary of the Creek domain thus fixed, which include the lands involved in this suit.

Thereafter the Treaties of June 29, 1796 (7 Stat. 56; 2 Kapp. 46); June 16, 1802 (7 Stat. 68, 2 Kapp. 58); November 14, 1805 (7 Stat. 96; 2 Kapp. 85); August 9, 1814 (7 Stat. 120, 2 Kapp. 107); January 22, 1818

(7 Stat. 171, 2 Kapp. 155); January 8, 1821 (7 Stat. 215, 2 Kapp. 195); January 24, 1826 (7 Stat. 286; 2 Kapp. 264); November 15, 1827 (7 Stat. 307; 2 Kapp. 284); and March 24, 1832 (7 Stat. 366, 2 Kapp. 341), were executed by the United States with the Creek Nation for the cessions of Creek lands guaranteed to the Creek Nation by the Treaty of 1790, east of the Mississippi River and in what are now the States of Georgia and Alabama.

Representatives of the Yuchi town of the Creek Nation, recognized as a constituent part of that nation, were in attendance at the treaty councils leading to the execution of the above Treaties of June 26, 1796, and August 9, 1814, and representatives of that town signed said Treaties of 1796 and 1814, and also the Treaties of 1826 and 1827, along with the representatives of the other Creek towns of the Creek Nation. Thus the Yuchi confirmed the right of the Creek Nation as a whole to dispose of Creek lands, and further recognized the fact that the Yuchi, as such, had no exclusive rights to any of the Creek domain ceded by said Creek Nation; and that the right of the Creek Nation as a whole was paramount.

The Chiefs of the Yuchi town of the Creek Nation signed the protest of the Creek Nation to the Treaty of Fort Jackson, and thus acknowledged that the Yuchi, as a separate entity, were not the owners of any of the Creek domain ceded by the treaty. They admitted also that the Creek Nation, led in council by the older and more ancient Creek towns, was the master of the Creek lands.

8. Upon the removal of the main body of Creek Indians to the West in 1836, the Yuchi as a constituent part of the Creek Nation and as

Creek Indians (not as Yuchi) were settled upon Creek domain in Indian Territory, now a part of the State of Oklahoma. Here also the Yuchi were represented in the Creek National Council, and continued to be governed by Creek laws. Under the constitutional form of Creek Government adopted by the Creek Nation in 1867 the Yuchi took a prominent part in Creek affairs, and some of the members of the Yuchi town of Creek Indians held high offices in that Creek Government.

9. The Yuchi were enrolled upon the Creek tribal rolls prepared by the Creek Government in 1890, and were later enrolled by the Dawes Commission as members of the Creek Nation under the Act of June 28, 1898 (30 Stat. 495), and the Creek Agreement of March 8, 1900, approved by the Act of March 1, 1901 (31 Stat. 861), and were thereafter allotted Creek lands as members of the Creek Nation in Oklahoma.

10. The Government of the Creek Nation was continued in modified form under Section 28 of the Act of April 26, 1906, (34 Stat. 137) and as modified is in existence today.

The present government of the Creek Nation is composed of a principal chief, elected by the members of the Creek Nation every four years, and formally commissioned as such by the President of the United States under Section 28 of the Act of April 26, 1906 (34 Stat. 137). There is also a Creek Tribal Council composed of duly elected representatives of each of the 44 tribal towns in the Creek Nation. The Yuchi town is represented in this Council by Legus Brown and Willie Tiger. The Yuchis participate in the election of the principal chief of the Creek Nation, who represents the Yuchis as well as all the other constituent parts of the Creek Nation.

11. By action of the Creek Tribal Council the present attorney of record for the Creek Nation in Docket 21 was selected to represent the Creek Nation before the Indian Claims Commission; and by appropriate resolution dated August 29, 1946, approved said contract with said Paul M. Niebell for this purpose. This resolution was approved by the principal chief of the Creek Nation, who was also one of the representatives of the Creek Nation signing the contract on behalf of the Creek Nation. This contract dated August 28, 1946, was duly approved by the Commissioner of Indian Affairs on November 20, 1947, and is now on file with the Indian Claims Commission. The Yuchi Indians, being a constituent part of the Creek Nation, are represented by Docket 21 by the duly authorized attorney for said Creek Nation in said case.

12. The contract with counsel for the Yuchi was approved by the Commissioner of Indian Affairs on June 15, 1951, with the following condition:

The approval of this contract shall not be construed as a recognition of the Yuchi or Euchee Tribe of Indians of Oklahoma as an identifiable group of American Indians for the purposes of the Indian Claims Commission Act.

13. There is no substantial proof in the record to show that the Yuchis were the aboriginal owners of, or had any exclusive rights in, any of the land ceded to the United States by the Creek Nation by the Treaty of August 9, 1814, which is involved in this suit.

The proof shows that all of this land was solemnly guaranteed by the United States to the Creek Nation as a whole by the Treaties of August 7, 1790, and June 29, 1796. Said lands were owned, occupied and controlled by the Creek Nation.

14. The Fort Jackson Treaty of August 9, 1814 (7 Stat. 120) cedes as territory belonging to the Creek Nation described as follows:

Beginning at a point on the eastern bank of the Coosa river, where the south boundary line of the Cherokee nation crosses the same; running from thence down the said Coosa river with its eastern bank according to its various meanders to a point one mile above the mouth of Cedar creek, at Fort Williams, thence east two miles, thence south two miles, thence west to the eastern bank of the said Coosa river, thence down the eastern bank thereof according to its various meanders to a point opposite the upper end of the great falls, (called by the natives Woetumka,) thence east from a true meridian line to a point due north of the mouth of Ofucshee, thence south by a like meridian line to the mouth of Ofucshee on the south side of the Tallapoosa river, thence up the same, according to its various meanders, to a point where a direct course will cross the same at the distance of ten miles from the mouth thereof, thence a direct line to the mouth of Summochoico creek, which empties into the Chatahouchie river on the east side thereof below the Eufaulau town, thence east from a true meridian line to a point which shall intersect the line now dividing the lands claimed by the said Creek nation from those claimed and owned by the state of Georgia: Provided, nevertheless, that where any possession of any chief or warrior of the Creek nation, who shall have been friendly to the United States during the war, and taken an active part therein, shall be within the territory ceded by these articles to the United States, every such person shall be entitled to a reservation of land within the said territory of one mile square, to include his improvements as near the centre thereof as may be, which shall inure to the said chief or warrior, and his descendants, so long as he or they shall continue to occupy the same, who shall be protected by and subject to the laws of the United States; but upon the voluntary abandonment thereof, by such possessor or his descendants, the right of occupancy or possession of said lands shall devolve to the United States, and be identified with the right of property ceded hereby. (This is Area 75 in Royce).

15. The territories for which claimants assert compensation in this case are described in Par. 13 of Claimants' Petition as follows:

13. The lands taken from the predecessors of claimants by the Treaty of August 9, 1814, is described as follows, to-wit:



Commencing at a point on the Atlantic coast in the State of Georgia due East from the most southerly part of the Jackson line thence West across the States of Georgia and Alabama to the Tombigby River; thence down that River to the old line of the Spanish domain; thence East, South and East along that line to the Atlantic Ocean thence Northerly up the coast to the place of beginning, containing more than 11,200,000 acres.

Edgar E. Witt  
Chief Commissioner

Louis J. O'Marr  
Associate Commissioner

Wm. M. Holt  
Associate Commissioner