

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE NATION,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 205
	)	
THE UNITED STATES OF AMERICA,	)	
	)	
Defendant.	)	

Decided: November 7, 1963

FINDINGS OF FACT

1. The Seminole Nation is an identifiable group of American Indians residing within the territorial limits of the United States and is entitled to bring and maintain this action pursuant to Section 2 of the Indian Claims Commission Act (60 Stat. 1049).

2. In 1854, before the beginning of the Civil War, the Seminole Nation had acquired a domain of 2,037,414.62 acres of Indian Territory, over which it exercised the unrestricted right of self government within its limits, and the United States by solemn treaty stipulation had promised that said lands should never be embraced within any Territory or State, or "ever be erected into a Territory without the full and free consent of the legislative authority" of the Seminole Nation. (Arts. 1, 4, 15 of the Treaty of August 7, 1856, 11 Stat. 699, 2 Kapp. 756; Act of March 2, 1889, 25 Stat. 980, 1003; Plat 22, Cession 480, Royce's Indian Land Cessions, 18th Ann. Rept., V.A.E.)

3. Article 18 of the Treaty of August 7, 1856, mentioned above, provided:

The United States shall protect the Creeks and Seminoles from domestic strife, from hostile invasion, and from aggression by other Indians and white persons, not subject to their

jurisdiction and laws; and for all injuries resulting from such invasion or aggression, full indemnity is hereby guaranteed to the party or parties injured out of the Treasury of the United States, upon the same principle and according to the same rules upon which white persons are entitled to indemnity for injuries or aggressions upon them, committed by Indians.

4. At the time of the outbreak of the Civil War, the Seminole Nation had certain income in the form of annuities due it from the United States payable as a result of certain treaties entered into between the United States and the Seminole Nation. This fact is not in dispute between the parties herein. These annuities due are set forth under the terms of Article VIII of the Treaty of August 7, 1856 (11 Stat. 699, 702), between the United States and the Creek and Seminole Tribes of Indians, the United States agreed in respect of the Seminoles, among other things:

\* \* \* to provide annually for ten years the sum of three thousand dollars for the support of schools; two thousand dollars for agricultural assistance; and two thousand two hundred dollars for the support of smiths and smith shops among them, \* \* \*

said sums to be applied to said objects in such manner as the President should direct.

For each fiscal year during the ten-year period from 1858 to 1867, inclusive, Congress annually appropriated as provided by Article VIII of the said treaty the following amounts: \$3,000 for support of schools; \$2,000 for agricultural assistance; and \$2,200 for the support of smiths and smith shops, or a total of \$72,000, the amount due the Seminoles under these provisions of the treaty.

While the said amounts were duly appropriated by Congress and made available for the purposes named, only \$10,436.58 of the amounts so appropriated was disbursed in payment of the above treaty obligations. The balance of \$61,563.42 was disbursed by the United States prior to June 30, 1866, for the purpose of clothing and feeding refugee and destitute Indians who had been driven from their homes during the Civil War on account of their friendship for the government. Of this \$61,563.42 the sum of \$31,599.68 was spent for the benefit of loyal refugee Seminole Indians.

5. When the Civil War began the United States found it necessary for tactical reasons to divert federal troops in the Indian Territory to other locations. In the absence of federal authority, the Seminole Nation entered into a treaty of peace and friendship with the Confederate States of America. The treaty was dated August 1, 1861. It was signed on behalf of the Seminole Nation by the Seminoles' principal chief and by twelve of the Seminoles' fourteen town chiefs. Acceptance of this treaty as an official act of the Seminole Nation, as an independent political entity, abrogated antebellum treaties between the United States and the Seminole Nation.

As a result of the act of petitioner, Congress enacted the resolution of February 12, 1862 (12 Stat. 614), which provided:

That the Secretary of the Interior be authorized to pay out of the annuities payable to the Seminoles, Creeks, Choctaws, and Chickasaws, and which have not been paid, in consequence of the cessation of intercourse with those tribes, so much of the same as may be necessary to be applied to the relief of such portions of such tribes as have remained loyal to the United States, and have been or may be driven from their homes in the Indian Territory into the State of Kansas or elsewhere.

Congress also enacted the Act of July 5, 1862 (12 Stat. 512, 528), which provides:

That all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portions of whom shall be in a state of actual hostility to the government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President: Provided, further, That the President is authorized to expend such part of the amount heretofore appropriated and not expended and hereinbefore appropriated for the benefit of the tribes named in the preceding proviso as he may deem necessary, for the relief and support of such individual members of said tribes as have been driven from their homes and reduced to want on account of their friendship to the government.

Pursuant to said Acts of Congress, the sums annually appropriated during the years 1862 to 1866, inclusive, were disbursed and expended with other funds appropriated for other hostile tribes, for the relief of refugee Indians, including members of the Seminole Tribe.

These expenditures were lawfully and justly made and the use and expenditure of said annuities for refugee purposes was settled, ratified and confirmed by plaintiff under the Treaty of March 21, 1866 (14 Stat. 755). Seminole Nation v. United States, 82 C. Cls. 135, 145, rev'd on other ground, 299 U. S. 417, 424-425; same case 93 C. Cls. 500, 516.

Many members of the Seminole Nation declined to honor the treaty of August 1, 1861. A number of Seminole Indians, estimated at one-half to two-thirds of the total Seminole Indian population, followed a Creek chieftain to Kansas. Three battles were fought by the Creek and Seminole refugees against Confederate forces in the dead of winter along the retreat route. As a consequence of the hasty exodus, the battles along the way, and the severe winter, the Seminoles arrived in Kansas impoverished













