BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF THE
STATE OF FLORIDA,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

THE SEMINOLE NATION OF THE
STATE OF OKLAHOMA,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

Decided: May 8, 1964

FINDINGS OF FACT

The Indian Claims Commission makes the following findings of fact herein:

1. On August 14, 1950, The Seminole Indians of Florida instituted a suit before this Commission which was assigned Docket No. 73. The suit was for compensation for lands approximately identified as the now State of Florida. On July 23, 1951, a wholly overlapping claim was filed by The Seminole Nation of Oklahoma and assigned Docket No. 151. By Order of this Commission dated January 22, 1953, these suits, less the fourth cause of action alleged in Docket No. 73, were consolidated for trial. The two suits were subsequently tried as a consolidated
matter and will be so dealt with in the subsequent Findings of Fact and the Opinion which was delivered today on these suits.

2. The plaintiffs herein are tribes, bands or other identifiable groups of American Indians residing within the territorial limits of the United States within the contemplation of Section 2 of the Indian Claims Commission Act of 1946 (25 U.S.C. 70a).

The plaintiffs herein, The Seminole Nation of Oklahoma and The Seminole Indians of Florida, together comprise The Seminole Nation as it existed in Florida until 1832.

3. Florida was first explored by Europeans when Spaniards landed in 1512. At that time, the explorers encountered hostile aborigines who were indigenous to Florida.

As of the pre-1600's, more than twenty-five separate aboriginal groups existed. These have been identified and their epicenters located in terms of modern geography.

a. The Pensacola were north-northeast of the Florida city of that name.

b. The Chatot were in the southeast corner of Calhoun County, west of the Apalachicola River.

c. The Sawokli were about ten miles west of the Georgia-Florida border city of Chattahoochee.

d. The Apalachicola were on the banks of the Apalachicola River about fifteen miles north of Chattahoochee.

e. The Apalachee were in Wakulla County east of the Sopchoppy River.

f. The Yustaga were in Madison County at Madison.
g. The Osochi were forty miles south of Madison on the line between LaFayette and Taylor Counties.

h. The Onatsequa were east of the Osochi near O'Brien in LaFayette County.

i. The Saturiba were on the banks of the St. John's River in the vicinity of Green Cove Springs.

j. The Utina were in the southeast corner of Gilchrist County.

k. The Potano were in the vicinity of Lochloosa Lake.

l. The Ocale were near the present City of Ocala.

m. The Mayaca and Mayaguaca were around Lake George.

n. The Acuera were near and west of Lake Apopka.

o. The Uribia /Uraba/ were at the Atlantic Ocean near Cape Kennedy.

p. The Tocobaga were just north of Tampa.

q. The Surrunque were west of Cape Kennedy on the banks of the St. John's River.

r. The Mococo were south of Tampa at Riverview.

s. The Ocita were south of Tampa, near Parrish in Manatee County.

t. The Perucho and Ulanay were between the Atlantic Ocean and the headwaters of the St. John's River, in the vicinity of Melbourne.

u. The Ais were inland around the Blue Cypress Lake north of Lake Okeechobee.

v. The Mayaimi and Sarrope were north-northwest of Lake Okeechobee to Lake Istokpoga.

w. The Guacata were east of the northeast shore of Lake Okeechobee near Indiantown.

x. The Calusa were in the vicinity of Lake Trafford and the Corkscrew Swamp.
y. The Jeaga were near the juncture of the West Palm Beach Canal and the Ocean Canal west of Pelican Bay.

z. The Tekesta were in the eastern sector of The Everglades west of Fort Lauderdale.

4. The geography and ecology of Florida fertile lands for cultivation to the north; abundant game, fish and forage to the south established aboriginal cultural patterns to which Indians in Florida adhered throughout their existence in Florida.

The Pensacola, Chatot, Sawokli, Apalachicola, Apalachee, Yustaga, Osoch, Onatheaqua, Saturibza, Potano, Ocale, Mayaca, Mayaguaca, Acuera, Uribia, Tocobaga, Surrunque, Mococo, and Ocita aborigines, all of whom lived north of a Cape Kennedy-Tampa Bay axis, were sedentary agricultural peoples. The Ais, Mayaimi, Sarrope, Guacata, Calusa, Jeaga, and Tekesta aborigines, all of whom lived south of the same axis were non-agricultural peoples who depended primarily on hunting, gathering, and fishing.

Those living north of the hypothetical axis established permanent villages with cultivated fields around them. Some achieved a comparatively prosperous and rich existence. Those to the south of that axis were relatively nomadic and lived in small communities of no more than a few hundred. They were highly warlike and difficult to deal with, and the exploring Spanish made few efforts to civilize or control them.

5. Spanish missions were established in the 1600's in chains radiating from St. Augustine west to the Apalachicola River and south along the upper reaches of the St. John's River, which flows from south to north parallel to the Atlantic Ocean.
The mission system penetrated inland as far as Alachua [modern Gainesville]. There was very little Spanish penetration of the southern half of peninsular Florida in any portion of the first period of Spanish administration [1550 to 1763].

The Spanish missions attracted numerous Floridian aborigines. These Indians accepted some of the benefits offered by the missions and discovered the advantages of trade with the Europeans. The Indians traded pelts and skins to the Spanish in exchange for guns, powder, knives, and other trade goods.

The Spanish missions were increased and, by 1725, there were sixteen missions radiating from St. Augustine which had been established for the enlightenment of over a thousand Indians. Other Spanish missions sought to minister to Indians on the east coast of Florida all the way to what is now the Miami and Keys region.

6. There was a series of well-used trails run by the Spanish between the administrative centers of St. Augustine [East Florida] and Pensacola [West Florida]. Eventually these trails became known collectively as The Old Spanish Road. It was first surveyed by the British.

7. The teeming aboriginal population of Florida was sharply reduced immediately following the introduction of European civilization. The three primary causes were European diseases which were highly contagious and highly morbid of the aboriginal population; inter-Indian competition for Spanish benefits; and Spanish punitive actions. After settlement of South Carolina, English slaving expeditions contributed to the reduction of the aboriginal population.
8. The trend of a downward adjustment of Indian population continued from 1565 to 1711. By then the bulk of the natives were concentrated in the vicinity of Spanish settlements and in the inaccessible Everglades. The aboriginal population, augmented by immigrant Creeks, was only reduced sharply and not wholly exterminated. Creek slaving expeditions after 1711 produced slaves, and large numbers of Utina aborigines remained in Florida.

9. The downward population trend was halted around 1715 when, as a result of the Yamasee War an uprising of Georgia Indians against the English, some Indian remnants, estimated at less than 200, moved into Florida.

The Yamasee revolt was Creek-instigated and, a few years later, there was an influx of Lower Creeks into northwest Florida. These, in turn, were augmented by other Lower Creeks who were invited into Florida by the Spanish authorities, and by Florida aborigines who had taken refuge with the Lower Creeks and were returning to Florida under Creek protection. These Indian immigrants took root in the Tallahassee and Gainesville areas.

10. The European willingness to exchange goods for pelts after the Yamasee War resulted in very prosperous trade for Creek Indians who had removed permanently to Florida. Indians were trading pelts for clothing and spirits, and such trade necessitated Indian use of all Florida where large animals abounded.

By 1737, the buffer strip between the areas on the north traditionally claimed by Creek Indians, i.e., Georgia and Alabama, and the areas on the
south traditionally claimed by Florida aborigines and Indians who had removed to Florida and were to become "Seminoles", consisted of that portion of Florida north and west of The Old Spanish Road. Around 1740, Lower Creeks who maintained their ties with The Creek Nation controlled the areas north and west of The Old Spanish Road from St. Augustine to Pensacola.

11. During the same decade Indians were settled generally in the Florida peninsula, in southeast Florida, along the Atlantic coast from Fort Pierce south to Miami, and down along the Keys where Indians were known to live as early as 1700 and as late as 1763. The Indians of south and south-central Florida were not under effective control of the Spanish at any time.

During the 1700's, the Indians south of the Tampa-Cape Kennedy axis continued with the traditional patterns of life, hunting, fishing, and gathering from wide areas, while the Indians north of that axis continued to enjoy the traditional benefits of agriculture.

12. By 1765, it was common practice for Europeans to refer to all Indians in Florida as "Semonoles". The Europeans were aware that the Indians so denoted constituted a separate Indian entity, The Seminole Nation, which was not comprised of Indians who were merely Creek expatriates.

At this time, two nuclei of the emergent Seminole Nation had been established: Alachua [modern Gainesville] where the Hitchiti speech prevailed, and Apalachee [modern Tallahassee] where the Muskogee speech prevailed. The Hitchiti-speaking Seminoles tended to concentrate in
central and southern Florida. The Muskogee-speaking Seminoles tended to concentrate in northern and western Florida. The Hitchiti-speaking Seminoles maintained no ties at all with The Creek Nation.

The Indians of Creek extraction, together with the assimilated aborigines, such as the Utinas of Central Florida, and the remnant aborigines of the lower peninsula made up the native population of Florida which became known collectively as "Seminoles."

The Seminoles, through their aborigine stock, were a people able to trace their ancestry beyond recorded history. The Seminole Indians used their lands in Florida, exclusively of other Indians, in Indian fashion. There were no non-Seminoles south and east of The Old Spanish Road. Their exclusive domain encompassed Florida from Pensacola east to St. Augustine, south of The Old Spanish Road, and south to and including the Florida Keys. The presence of Creeks who maintained their ties with The Creek Nation negated Seminoles' exclusive use and occupancy of the buffer strip north and west of The Old Spanish Road to the borders of Georgia and Alabama.

Depending upon their location and traditional way of life, the Seminoles hunted, fished, pastured cattle, planted and foraged throughout their exclusive domain in Florida. In the second half of the 18th century, The Seminole Nation was a populous and prosperous group.

Permanent villages of The Seminole Nation, traditionally in the areas suitable for agriculture and cattle, were located in places now identifiable as Osochi [Leonards], Yapalaga [Covington], Ospalaga [Eridu], Machaba [west of the Econna River], Atawalia [on the Econna River],
Nugalla [on the Hampton River at the Gulf], Woftoka [Mikesville],
Potano [Santa Fe], Alacua [Faiford], and St. Augustine. In part, these
settlements tended to center on such Spanish settlements as San Marcos
[St. Marks], San Mateo [Hampton Springs], San Pedro [Luraville], San Tomas
[Bland], Alachua [Highland], and San Nicolas [Riverdale]. In addition,
there were temporary Seminole encampments throughout peninsular Florida,
wherever the hunting, fishing, and gathering attracted them.

13. The Spanish closed the first Spanish period of administration
of Florida in 1763. The Spanish took with them in their retreat to Cuba
some Yamasees and some Utinas, thus causing a slight downturn in the
native population of Florida. Simultaneously, the British period of
government of Florida began.

British government of Florida included better relations and more
trade with the Seminoles. British administration featured a pattern
of conventions, congresses, or meetings with Indians, looking toward
treaties.

Numerous trading posts were established and Seminoles were encouraged
to supply the pelts and cattle which the British traders would accept.
The enlarged market promoted pasturing and hunting. The hunting areas
were concentrated in the lower peninsula.

14. The first important congress was held by the British at
Augusta in 1763. There, Creek representatives purported to speak for
all of Florida. The Creek Indians demanded that "the English were not
to go beyond the tide level in West Florida, and that the territory of
the English in East Florida was not to reach beyond the St. John’s River in the neighborhood of St. Augustine."

A year later, at Pensacola, this Creek demand was interpreted by the British as a commitment that "no settlement should be made by the White People at Pensacola but within the ebbing and flowing of the Tide."

The Creek Indians at the first Pensacola congress granted to the British a described area around Pensacola Bay and the settlements formerly possessed by the Yamasees.

No Seminole representatives attended the first Pensacola congress.

15. A congress between English and Indians was held at Picolata in 1765. During the latter part of the congress, Seminole representatives appeared, but took no part in the proceedings. The Creek representatives who attended the Picolata congress included those who were at Pensacola the preceding year.

The Picolata congress culminated in a treaty under which the Creek representatives from the Pensacola area granted to the British a strip of the upper Atlantic coast line. It was the area between the St. John’s River and the Atlantic Ocean, from the then known headwaters of that river north to its entrance into the Atlantic Ocean.

16. In 1771, the English and the Creeks again met at Pensacola to refine the boundaries of the 1765 cession by the Creeks. Representatives of The Seminole Nation were not present. By 1771, the British were aware of the existence of a separate group of Florida Indians then known as the Seminolies.
17. British administration of Florida terminated in 1783 when Spain reaccepted Florida from England. During all of the British period there was a small but constant flow of former Creeks becoming and swelling the ranks of The Seminole Indians.

By about 1800, the Indians in Florida south and east of The Old Spanish Road had coalesced into an overall cohesive group, The Seminole Indians. They consisted of Indian immigrants, chiefly Creeks of the Hitchiti- and Muskogee-speaking stock, with an admixture of remnant Florida prehistoric aborigines.

The Seminole Indians had the organizational machinery necessary to act in concert when external events threatened. In tranquil times control of Seminole activities was fragmented and reposed in the individual villages and communities, each of which acted on its own behalf.

Late in the 18th Century, The Seminole Nation was a relatively prosperous group which inhabited Florida south to and including the Florida Keys. The number of Seminole villages showed a steady increase as the Seminoles established centers throughout Florida. In addition to earlier permanent settlements which were located in the northern agricultural belt, there were new villages established in north, central, and southern areas of Florida by The Seminole Indians.

In northern Florida, Seminole settlements appeared at Achatkeithle and Wachitokha and Picolta. In central Florida Seminole settlements appeared at Okawahathako, Alachua not the site of the Spanish trading post of the same name, and Chukuchatta. In southern Florida there were Seminole settlements at Hitchapukassi, Sarasota, and Caloosahatchee.
In addition, there were many unnamed sites of temporary encampments at the times and places where hunting, fishing, and foraging were fruitful.

18. One event which impelled the concerted action of the Seminole Nation occurred in 1804 when the Seminole Indians became indebted to the trading firm of Panton, Leslie, & Company. In order to satisfy this indebtedness, the Seminole Nation sold a parcel of land about forty miles square, lying between the Appalachee and Apalachicola Rivers. The trading firm of John Forbes & Company succeeded to the interests of Panton, Leslie, & Company, and the area became known as the Forbes Purchase. This was a bona fide sale by the Seminole Nation.

19. During the second period of Spanish administration, raiders from the United States slashed into northern Florida in a series of attacks, with the covert approval of the United States Government. Some of these raids were directed against the Seminole Indians and the runaway slaves whom they had harbored. Such raids contributed to the impoverishment of the once-wealthy Seminoles, together with some diminution of their numbers.

20. The trickle during the second Spanish period of new Seminoles of Creek extraction changed to a flood of emigration on the close of the Creek War in Alabama. The defeated Creeks took refuge first in upper Florida, then in central and south-central areas. These refugees severed all ties with the Creek Nation and became Seminoles as they were assimilated into the Seminole Nation.
By the end of the second decade of the 19th century the Seminoles totalled approximately 6,000. In addition to the existing settlements there were newer Seminole communities on the Apalachicola, Ochlockonee, Aucilla, Suwanee, St. John's and Withlacoochee Rivers, on the Gulf coast and in the central peninsula, and a few minor communities achieved permanence on the Atlantic coast. These communities adhered to the olden pattern of agriculture in the north and north-central areas and extensive and widespread hunting, fishing, and foraging to the south into the Big Cypress and Everglades swamps.

21. After the Creek War in Alabama, with its resultant increase in the numbers of Seminoles in Florida, was the First Seminole War. Andrew Jackson's forces killed and destroyed Seminole communities in northern Florida and in central Florida as far as where the Suwanee River empties into the Gulf of Mexico.

Creek Indians who had been defeated in Alabama in 1814 joined in the First Seminole War and became Seminole refugees at the end of the First Seminole War in 1819. There were from 5,000 to 6,000 Seminoles known in Florida at that time. These refugee Creeks were among the last immigrant Indians to swell the Seminole population in Florida before United States sovereignty attached.

22. The United States took formal possession of Florida pursuant to an Act approved on March 3, 1821, and conformably with a treaty between the United States and Spain concluded on February 22, 1819 (3 Stat. 523).

Article 8 of the 1819 Treaty provided for United States' ratification of Spanish land grants to European prior to January 24, 1818. Many
such grants, within and without the area exclusively used by The Seminole Nation in Indian fashion, were perfected under the machinery provided by Congress for ratification. No claim was filed by The Seminole Nation.

23. On September 18, 1823, the United States and The Seminole Nation entered into a treaty (7 Stat. 224). Under this Treaty of Camp Moultrie, the United States accepted the Seminoles' cession of their claims to Florida and allotted to the Seminoles a reservation in south-central Florida (Royce Area No. 173). Thirty-one representatives of The Seminole Nation signed the treaty.

Eventually most of the Seminole Indians were concentrated on this reservation. The reservation, Seminole title to which was recognized by the United States in the Treaty of Camp Moultrie, was enlarged by about 15% in 1827. This enlargement was accomplished pursuant to Article IX of the Treaty of Camp Moultrie which authorized enlargement of the reservation if the boundaries, as drawn in Article II, enclosed insufficient land for the needs of the Seminoles.

24. On May 9, 1832, fifteen representatives of The Seminole Nation signed a removal treaty (7 Stat. 368) at Payne's Landing. Under this treaty The Seminole Nation exchanged the reservation of over 4,000,000 acres for lands adjacent to the Creek Reservation in the Indian Territory.

In 1835 the Seminole Indians were advised that unless they began their immigration to the Indian Territory, Federal troops would be sent to enforce their removal. This ultimatum triggered the seven-year-long Second Seminole War.
The Seminole tribal leaders surrendered at different times during the war. As they surrendered, they and their followers and slaves immigrated to the Indian Territory under military escort.

Ultimately, most of the Seminoles settled apart from the Creek Indians on land ceded by the Creeks in the Indian Territory.

25. Until September 18, 1823, The Seminole Nation then in Florida exclusively used in Indian fashion most of the now State of Florida and had Indian title to the land so exclusively used. The area so exclusively used in Indian fashion is everything, including Keys, south and east of The Old Spanish Road from St. Augustine west to its intersection with the perimeter of the amplified Pensacola Purchase and thence around the eastern edge of that perimeter to the Gulf of Mexico, less certain areas.

The Seminole Nation did not exclusively use or occupy land north and west of The Old Spanish Road.

The areas to be subtracted from the lands to which The Seminole Nation had Indian title are (1) those Spanish land grants in the owned area confirmed under the machinery provided by Congress; (2) the Forbes Purchase; (3) the Picolata Purchase; and (4) the Seminole reservation of over 4,000,000 acres.

With respect to the last item, the reservation, The Seminole Nation's title to the amplified reservation was recognized by the United States.
The recognized title of The Seminole Nation to the reservation in its entirety existed until May 9, 1832, the date of the Treaty of Payne's Landing (7 Stat. 368).

Arthur V. Watkins
Chief Commissioner

Wm. M. Holt
Associate Commissioner

T. Harold Scott
Associate Commissioner