BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE INDIANS OF
THE STATE OF FLORIDA,
Plaintiff,
v.
THE UNITED STATES,
Defendant.

v.
THE SEMINOLE NATION OF
THE STATE OF OKLAHOMA,
Plaintiff,
v.
THE UNITED STATES,
Defendant.

Decided: June 28, 1968

ADDITIONAL FINDINGS OF FACT

The Commission makes the following Findings of Fact which are supplemental to the Findings numbered 1 through 25 heretofore entered in the matter of Consolidated Docket Nos. 73 and 151:

26. The phrase "The Old Spanish Road" was in common use during and prior to 1824 in the context of denoting in Florida a known route connecting St. Augustine at the Atlantic Ocean with Pensacola at the now Southernmost Alabama - Florida border. "The Old Spanish Road" was specified in the Act of February 28, 1824, 4 Stat. 5, 6, to include [as an approximate mid-point] the site of Fort St. Louis near the now city of Tallahassee, Florida.

THE OLD SPANISH ROAD

27. The Old Spanish Road [hereinafter also variously identi-
fied as the "Road" or the "route" as the context may require] began at St. Augustine and proceeded west to a crossing of the St. Johns River at Picolata [where possible, the turning points will be located in modern terms; all are in Florida]. Crossing the St. Johns River slightly downstream [the St. Johns flows from south to north] to the site of San Fernando on the west bank, the Road turned minutely south to the site of Fort Pupa, also on the west bank of the St. Johns River. At the site of Fort Pupa, the Road ran distinctly southwest, to turn more west at a point four miles west of the northernmost point of Georges Lake.

From the point west of the northern fringe of Georges Lake, the Road ran west to and past the northern fringe of Sante Fe Lake to the now Waldo, Florida. From Waldo, the Road angled more south of west to a crossing of Cowpen Creek which enters Newmans Lake at its northern end. After crossing Cowpen Creek, the route was again to the west, passing north of Gainesville to the now Alachua, Florida.

The trend from Alachua was more sharply north to the Hetopokee Camping Ground, now High Springs, and across the Sante Fe River to the Seminoles' Weechatooka, six miles due north of the now Hildreth. After Weechatooka, the Road more or less paralleled the Suwanee River to the now Emerson, Florida, north of O'Brien. The Old Spanish Road then crossed the Suwanee River where it bends sharply northward near Dowling Park.

28. After crossing the Suwanee River, the route continued northwesterly about 14 miles to a point about four miles southeast of the now Madison, and bent more west to a crossing of the Aucilla River four miles north of Aucilla, to the site of Fort St. Lewis near Talladega.
hassee. The Road then veered northwest as it skirted the western edge of Lake Jackson to cross the Ochlockonee River about five miles southeast of Havana.

From the Havana location, the Road trended northwest to a crossing of the now Florida - Georgia border at 84° 33' 45" of west longitude. The Road reentered the now State of Florida about four miles west of Noma and circled through a west and north of west arc of some four miles to a crossing of the East Pittman Creek. After that crossing, the Road approximated the northern bank of the East Pittman Creek to its confluence with the Choctawhatchee River. From that confluence, the route trended west for three miles, then abruptly northwest for about eight miles to the point where the now Florida State Route 81 becomes Alabama State Route 87. Touching that border, the Road then circled through a flat southwest to west to northwest eight-mile arc, ending with a crossing of the existing Florida - Alabama border at 86° 6' 0" of west longitude.

29. The Old Spanish Road reentered the now State of Florida at the now Florida - Alabama border at 86° 33' 0" of west longitude and continued more south than west to 86° 36' 0" about three miles south of that border. The route then trended somewhat north but mostly west to a crossing of the Blackwater Creek two miles south of that border. From the Blackwater Creek crossing, the trend was southwest to a crossing of the Coldwater Creek at 87° 1' 0" of west longitude, 26° 0' 0" of north latitude. After crossing Coldwater Creek, the Road angled slightly more westerly to its intersection with the perimeter of the Amplified Pensacola Purchase on the Escambia River about four miles due east of the now Cottage Hill, Florida.
30. A congress held in September, 1764, between the British and the Creek Indians included this speech of cession by Wolf King, Chief Speaker for the Creeks:

When the Spaniards came first here they were settled by their Consent, and as they are now gone, He is going by consent of all the Chiefs, to give King George a grant of land. Ten Miles in Depth from Deer Point, opposite to the Island of Saint Rose, quite round the Bay of Pensacola, and to Extend along the Sea Coast, to the Point of Mobile Bay, from thence up the East side of Mobile Bay, till it comes Opposite to the Town of Mobile.

No additional lands were ceded in the vicinity of Pensacola in the course of the second Pensacola Treaty, dated November 2, 1771.

31. The cession described in the language quoted in Finding No. 30 herein comprised the peninsula of land bounded on the east by the now Escambia Bay and the now Pensacola Bay, both of which were regarded as the Pensacola Bay in 1764, and on the west by the body of water now known as Perdido Bay. The line of the Pensacola cession on the east and to the north followed course of the Scambia [now Escambia] River ten miles up that course and then west to a point not material to this case.

32. The eastern boundary, to the north, of the cession described in Finding No. 30 herein, joined a line established in the course of the 1771 Pensacola congress. That 1771 line ran inland from the Chactaw [Choctawhatchee] River to the confluence of the River Scambia and Boundary Creek, and is material here only to connect up the northeastern boundary of the Amplified Pensacola Purchase.

33. The eastern perimeter of the Pensacola Purchase ran down the Escambia River from the point of intersection of The Old Spanish Road
to where the Escambia empties into the Bay, and thence along the western edges of the Escambia and Pensacola Bays to Deer Point which is on the west side of Pensacola Bay where it flows into the now Santa Rosa Sound. From Deer Point, the perimeter trailed off to the west along the Gulf of Mexico.

**THE PICOLATA PURCHASE**

34. In the course of a Creek - British congress at Picolata late in 1765, boundaries between the participants were agreed upon, the British being restricted to lands enclosed by the boundaries of what is now known as the Picolata Purchase. The language of the 5th Article of the treaty specified:

... we do hereby agree that for the Future the Boundary line of his Majesty's said Province of East Florida shall be all the Sea Coast as far as the Tide flows in the manner settled with the English by the great Tomichichie with all the Country to the Eastward of the River St. Johns forming nearly an Island from its source to its Entrance into the Sea, and to the Westward of St. Johns River by a Line drawn from the Entrance of the Creek Acklamaugh into said River above the great Lake and near to Spaldings Upper Trading Store house to the Forks of black Creek at Colville Plantation and from thence to that part of St. Mary's River which shall be intersected by the continuation of the line to the Entrance of Turkey Creek into the River Altamaha.

To the extent that it is material to this case, the northern boundary of the cession described in this Finding No. 34 was The Old Spanish Road from St. Augustine west to where it crossed the northern segment of the western boundary, and the eastern boundary of this cession was the Atlantic Ocean.

35. A contemporary British Crown Surveyor, De Brahm, parti-
icipated in the Picolata cession survey lines. His field notes represent the thinking of the Picolata participants about those survey lines. The sixth paragraph of the field notes sets out the northern segment of the western boundary of the Picolata Purchase; the eighth paragraph sets out the southern segment of the western boundary of the Picolata Purchase, as well as the area of a portion of the land embraced by the Picolata boundaries.

The northern segment of the western boundary was described by De Brahm:

6. At this Congress the limits between East Florida and the Creek Indians were drawn from a pine tree upon St. Mary's Stream. * * * The line agreed upon from said pine tree was not to exceed the south side of Oklywhaw [Acklamaugh in the treaty; Oklawaha on modern maps] River, but turn with the said river home to its mouth, and from thence another line was to be drawn "towards sun rise" (due east) to the Atlantic Ocean.

That the line described in the 6th paragraph of De Brahm's field notes was the northern segment of the western boundary and not the entire western boundary is apparent from the first two sentences of the eighth paragraph:

8. What is peculiarly admirable in the capacity of the Indians is their natural knowledge in Geometry. For in my future surveys, their first line, which they joined to that of Georgia, viz, from the pine tree, to the River Oklywaha, proved to be a parallel with the Atlantic Coast. (emphasis added)

After computing that if a line were drawn from the confluence of the St. Johns and Oklawaha Rivers [north of Lake George, at the now Welaka] to the Atlantic Ocean, that line plus the Ocean plus the western and northern boundaries expressed in the treaty would embrace an area of 1,899,975
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acres, De Brahm went on to report:

...by which the Indian Boundaries extends from latitudes 30° 22' 00", no farther south than latitude 29° 16' 50" which is 1 05' 13" in latitude, and 0° 50' 47" in longitude, all lands to the south from Lake Gordon, the great Swamp; and the head of Halifax Stream, comprehending the following tracts of land laid out by the deputy Surveyor on his Majesty's Warrants and the Governor's private orders are within the Indian Reserve. (emphasis added)

36. The northernmost western boundary of the Picolata Purchase was a straight line beginning well to the north of the subject lands at "the pine tree: and running to the confluence of the Oklawaha and the St. Johns Rivers. The southernmost western boundary began at that confluence and ran up the course of the St. Johns River to a point in Lake George. The southern boundary was that point in Lake George at 29° 16' 50" of north latitude and thence due east to the Atlantic Ocean. The northern boundary was the course of The Old Spanish Road from the Atlantic Ocean west to its crossing of the "pine tree" line [for the purposes of this decision], and the eastern boundary was the Atlantic coastline.

THE RESERVATION

37. In 1825, it was proposed that the Seminole Reservation in central Florida [Royce Area 173, Florida Plate] be enlarged:

...the Northern line as extended on the recommendation of Col. James Gadson be still further extended by running it twenty five miles West, then Southward (to embrace the Big Hammock, or Swamp,), til it strikes the offset fifteen miles from the Gulph, at the angle where the South line 30 East direction, commences, & which terminates five miles from the main branch of Charlotte River, the object being to embrace the Big Hammock, a Swamp, and to assign it to the Indians as part of the Territory ceded to them by the Treaty aforesaid, and in addition to the limits defined by such Treaty...
An Order containing the above recommendation was signed by President James Monroe on February 24, 1825, and the extension was effected forthwith.

The "line as extended on the recommendation of Col. James Gadson" had, as its western terminus prior to the Presidential Order of February 24, 1825, the "Amaura or With-la-couche Creek", denoted "Amaura" on the map accompanying the recommended extension. A modern map would show the Withlacoochee River at that location and on that course.

38. The "Gadson" line was extended twenty-five miles to the west, and then dropped south, to embrace the "Big Hammock" area [west of the Tsala Apopka Lake on modern maps]. One effect of this extension was to add to the Reservation a triangle jutting out to form a west-north-west corner, such triangle comprising about 50,000 acres. Prior to 1832 and from 1825, that triangle was an integral part of the Seminole Reservation.