

BEFORE THE INDIAN CLAIMS COMMISSION

THE CREEK NATION,)
)
 Plaintiff,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)

Docket No. 167

Decided: June 30, 1969

ADDITIONAL FINDINGS OF FACT

The Commission makes the following findings of fact which findings are supplemental to the Commission's findings 1 through 15 previously entered herein (18 Ind. Cl. Comm. 434).

16. Under the Seminole Agreement of July 1, 1898, 30 Stat. 567, the United States allotted 1149.51 acres of the subject lands to Seminole Indians as a part of approximately 150 separate allotments made during the years 1901-1906. Approximately 33% of these allotments were made in 1901 with 14% occurring in 1902, 27% in 1904, 3% in 1905 and 23% in 1906. Most of these same lands were patented to the Seminole allottees in the years 1912, 1913 and 1914. The remaining few acres were patented in 1922. The Commission concludes that these lands were taken from the plaintiff by the United States on the dates of the individual allotments. The Commission also finds June 30, 1904, to be an equitable average date for the valuation of the entire 1149.51 acres.

Some 29.28 acres of the subject lands were included in the townsite of Wewoka. The 1898 Seminole agreement provided for the sale of this townsite as follows:

"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 23rd, 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."
(30 Stat. 567, 568)

On February 12, 1900, the Seminole Townsite Commission conveyed the unsold townlots of the entire townsite of Wewoka to John F. Brown and his brother, A. J. Brown, Principal Chief and Tribal Treasurer, respectively, of the Seminole Nation, for \$12,000.00. By Act of March 3, 1905, 33 Stat. 1048, 1088, Congress confirmed title of Wewoka townsite in the Browns as follows:

"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."

We conclude that March 3, 1905, when Congress confirmed the title of the Wewoka townsite in the Browns, marks the date when these 29.28 acres were taken from plaintiff by the United States, and is the proper valuation date.

17. The Emhaka Mission School Tract contained 20.20 acres of the subject lands. These lands were patented by the United States to the purchaser on December 22, 1924. We find this date to be the date when these 20.20 acres of land were taken from the plaintiff by the United States and also the valuation date.

In summary, the Commission concludes that 1198.99 acres of plaintiff's lands were taken by the United States without the payment of compensation when the United States allotted and patented these lands to others as of the allotment and patent dates cited above. The Commission also finds that these lands are to be valued as of these same dates. The Commission further concludes as a matter of law that under Section 2 (1) of the Indian Claims Commission Act the plaintiff is entitled to just compensation from the defendant for the taking of these lands.

The case will now proceed to a determination of the compensation to which plaintiff is entitled for the taking of the subject lands, and also as to what offsets, if any, defendant is entitled under the Indian Claims Commission Act.


Jerome K. Kuykendall, Chairman


John T. Vance, Commissioner


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner