

BEFORE THE INDIAN CLAIMS COMMISSION

THE SEMINOLE NATION,)	
)	
Plaintiff,)	
)	
v.)	Docket No. 247
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

FINAL ORDER OF DISMISSAL

Upon the findings of fact and opinion this day entered herein and which are hereby made a part of this order, the Commission concludes as a matter of law:

1) That the plaintiff's claim that it is entitled to recover from the United States the annual \$15 per mile charge which should have been collected from the Chicago Rock Island and Pacific Railway from November 16, 1907, to the present, on the basis that such charge was compensation for the use of the lands is foreclosed, under the doctrine of collateral estoppel, by the holding of the Supreme Court in the prior litigation between the plaintiff and defendant, reported at 318 U.S. 629, 637, that such charge was a tax rather than compensation for the use of the lands;


2) That the plaintiff has failed to establish that the United States, in enacting the Act of February 28, 1902, 32 Stat. 43, and the Act of April 26, 1906, 34 Stat. 137, acted unfairly and dishonorably towards the Seminole Nation;


3) That the Secretary of the Interior's failure to bring suit on behalf of the Seminole Nation under Section 18 of the Act of April 26, 1906, 34 Stat. 137, was not an abuse of discretion actionable under Section 2, clause (5) of the Indian Claims Commission Act, 60 Stat. 1049, 1050;

4) That, since the underlying fee in the right-of-way lands vested, on March 1, 1909, in the abutting allottees and the municipalities of which such lands were a part, the Seminole Nation has no standing under the Indian Claims Commission Act, to sue on any cause of action which may have accrued thereafter with respect to said lands.

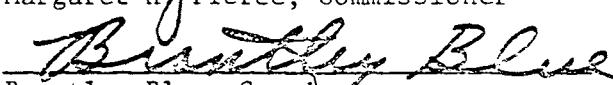
IT IS THEREFORE ORDERED, adjudged and decreed that the claims herein be, and the same hereby are, dismissed.

Dated at Washington, D. C., this 24th day of March 1972.


Jerome K. Kuykendall, Chairman


Richard W. Yarborough, Commissioner


Margaret H. Pierce, Commissioner


Brantley Blue, Commissioner