

## MEMORIAL OF J. C. ADAMS,

FOR AND IN BEHALF OF

### THE STOCKBRIDGE AND MUNSEE TRIBE OF INDIANS.

FEBRUARY 28, 1885.—Referred to the Committee on Indian Affairs and ordered to be printed.

*To the honorable the Senate and House of Representatives of the United States in Congress assembled :*

We are constrained to notice a memorial and protest against the passage of bill (H. R. 2889) claiming to be on behalf of the Stockbridge Nation. (Senate Mis. Doc. 119, Forty-eighth Congress, first session.)

This memorial has been addressed to the Congress of the United States, and contains sundry statements against the tribe which, if unanswered, would greatly mislead and attach gross injustice to a greater portion of the tribe against whom it is made. It will be observed the memorial is long, and is framed to misrepresent facts, by one who is either unacquainted with our tribal affairs, or else skilled in intrigue and false accusation.

We wish it to be particularly noticed by your honorable body that before we were made acquainted with the purports of said memorial we had submitted all our communication to the honorable Commissioner of Indian Affairs, and that the honorable Committee on Indian Affairs of the House of Representatives had considered the subject-matter and made a favorable report thereon and recommended the passage of bill 2789. (H. R. Report No. 1054, Forty-eighth Congress, first session.)

And if the committee had been misled by misrepresentations of facts, of which evidence could have been found, if we were acting under the influence of which we are charged.

Without stating at length our grievances and reposing the fullest faith in the justice and equity of our claim, we, for ourselves and in behalf of the Stockbridge and Munsee tribe of Indians, beg leave to submit the following brief for your consideration:

In 1808 the Stockbridge and Munsee tribe of Indians, in conjunction with the Delawares, obtained a grant of land from the Miami Indians on White River, Indiana. (P. 111; Appendix, Rep. Secretary War, 1820.) The right to this land the Miamis subsequently recognized in the second article of the treaty of Fort Wayne, of 30th September, 1809. (Stats., vol. 7, p. 113.)

On the 3d of October, 1818, the United States by treaty purchased of the Delawares this tract of land. (Stats., vol. 7, p. 188.)

The Stockbridge and Munsees claimed an equal interest in this land. The United States promised to aid them to make a purchase of lands from the Western tribes.

Under encouragement given by letter from the Hon. John C. Calhoun,

Secretary of War, of the 12th of February, 1816, and February 9, 1820, and of June 4 and 21, 1821. (Senate Doc. 189, pp. 10, 12, 13, Twenty-seventh Congress, second session.)

On the 18th day of August, 1821, the Stockbridge and Munsee tribe of Indians, in connection with the Six Nations, made a treaty with the Winnebagoes and Menomonees for the purchase of a tract of land near Green Bay, Wis. (Same document, 189, pp. 15, 16, 17, &c.)

On the 23d of September, 1822, a second treaty was made with the same parties for another tract. (Same document 189), and part subsequently.

These treaties were approved by the President February 9, 1822, and March 13, 1823. (*Ib.*, 16, 21.)

The Stockbridge and Munsees took immediate possession of these lands, and continued upon them in peace until 1830, at which time the Menomonees alone became dissatisfied, and made application to the Government to adjust the "difficulties," which arose about the extent of the purchase of 1821 and 1822. The United States, on the 8th day of February, 1831 (without the consent of the Stockbridges, Munsees, or Winnebagoes), made a treaty with the Menomonees to settle the "difficulty." The location of the land in question was defined to be between the Fox River and Oconto Creek, and embracing an area of 500,000 acres. (Stats., vol. 7, p. 342.) In 1832, June 25, this location was further modified by a resolution of the Senate. (Stats., vol. 7, p. 347.)

In consequence of this a further treaty, with an appendix, was agreed to on the 27th day of October, 1832, and proclaimed March 13, 1833. (Stats., vol. 7, p. 405.)

By these treaties and modifications the Stockbridges and Munsees were secured two townships of land on the east side of Lake Winnebago, where they removed to in 1834.

On January 15, 1838, the United States, by treaty with the New York Indians, purchased all their lands in Wisconsin, except a small tract set apart and occupied by a portion of these Indians. (Stats., vol. 7, pp. 550, 551.)

By the 2d article of the treaty, the United States agreed to set apart a tract of land west of the Missouri as a permanent home for all the New York Indians, whether residing in the State of Wisconsin or elsewhere, being 320 acres for each of said Indians, as their numbers are at present computed, and the land to be held "*in fee simple*."

And it was understood and agreed that the Stockbridges and Munsees were to be included, and the same is to be divided equally among them according to their respective numbers as mentioned in a Schedule, A, made at that time. (Stats., vol. 7, pp. 651-556.)

By the terms of the treaty, the Government was to have appropriated \$400,000 to be applied from time to time, under the direction of the President, to aid them in removing and their support.

A portion of the Stockbridge tribe became dissatisfied and desired to remove to the tract set apart for the "New York Indians." Accordingly, a treaty was made the 3d of September, 1839, by which the United States purchased one township of land, and a portion of the tribe obligated itself to remove west of the Mississippi. (Stats., vol. 7, p. 580.)

After their removal west they lived upon the lands of the Delawares, in Missouri, until arrangements could be made to locate on the lands known as the "New York tract," in which they had a right in common with the Six Nations, but the "white squatters" would not let the Indians reside upon the "New York tract," and drove them off.

A few years afterward a number of the Indians returned back to the

tribe, but were not "readopted" as stated by the "memorialist." They were told that they could live with the tribe until a treaty could be made, and then provision would be made to bring them back into the tribe again.

And as the Government had not assigned these Indians any homes in the West; the Commissioner of Indian Affairs instructed the Superintendent of Indian Affairs that "arrangements ought therefore be made at once to provide them with a home to which they could be induced to remove."

In the preamble, and in article 6 of the treaty of February 5, 1856, their right is explicitly acknowledged. (See vol. 11, p. 663-665.) A few years afterwards dissention again arose in the tribe; a minority of the tribe desired to become "citizens of the United States." A petition was drawn up and signed by the minority of the tribe, praying that Congress might pass a law to make the Stockbridge Indians citizens of the United States.

The advocates of this measure were called the "citizen's party," and those who were opposed were called the "Indian party."

On March 3d, 1843, the prayer of the petition was granted, and the Stockbridges (but not Munsees) were declared to be citizens of the United States. (Stats., vol. 5, p. 645.)

The first section of the act authorizes the lands of the Stockbridges to be patented and divided among the different individuals composing the tribe, and the holding of those lands by them separately and severally "in fee simple."

The second section provides that commissioners are to make a just and fair partition and division of the lands among the members of the tribe.

The third section provides for the election of five commissioners from the individuals of the tribe by a majority of the whole number of such voters present.

The fourth section provides for the allotment and division of the lands.

The fifth section provides for the manner in which the commissioners shall make their returns, and in which appeals shall be received from the allotment.

The sixth section provides for the return of copies of the report of the commissioners.

The seventh section provides for the return of the reports and maps to the President, and confers the right of citizenship on the Stockbridges (but not on the Munsees). It expressly declares—

That after the report and maps shall have been filed and transmitted to the President as aforesaid, the said Stockbridge tribe of Indians, and each and every of them, shall then be deemed to be citizens of the United States, to all intents and purposes, and shall be entitled to all the rights, privileges, and immunities of such citizens, and shall in all respects be subject to the laws of the United States and of the Territory of Wisconsin in the same manner as other citizens of said Territory; and the jurisdiction of the United States and of said Territory shall be extended over the said township or reservation now held by them in the same manner as over other parts of said Territory; and their rights as a tribe or nation, their power of making or executing their own laws, usages, or customs as such tribe, shall cease and determine.

There is also a proviso—

That nothing in this act contained shall be so construed as to deprive them of their rights to any annuity now due them from the State of New York or the United States, but they shall be entitled to receive any such annuity in the same manner as though this act had not been passed.

This act was fully complied with on the part of the Stockbridge tribe, and the lands were allotted to each individual member of the said tribe, (see report of allotment of August 24, 1843), but on the part of the Government it was not complied with; patents remained to be issued to the several persons to whom lands had been allotted in conformity to law. (H. R. Rep. No. 447, pp. 3, 15, Twenty-ninth Congress, first session.)

And the "memorialist" is in error again when he says: "The citizen party took their allotments and exercised the rights, &c., and bore the burdens of citizens of the United States and of the Territory of Wisconsin."

The Commissioner of Indian Affairs, in relation thereto, says:

By the act of March 3, 1843, the tribal character of these Indians was taken away, and they were to become citizens of the United States on the filing of the report of the commissioners chosen to carry out its provision, and of a map showing the division and assignments required by it of the lands in severalty. These papers were duly executed and filed, and all the prerequisites to citizenship fulfilled, and the Stockbridges, therefore, to all intents and purposes, became citizens, with all the rights, privileges, and immunities of citizenship. (Ex. Doc. No. 1, p. 778, Thirtieth Congress, first session.)

They had accepted of the act of 1843, and confirmed the proceedings of the commissions chosen to carry it into effect. (Same document, pp. 775, 781.)

They had accepted of the act by voting at the elections and holding offices and buying and selling lands and attending as petit and grand jurors in the district courts, &c. (Ex. Doc. No. 1, pp. 742, 789, 790, 797, 798, 804 to 810, inclusive.)

Report commissioner, 1854 (pp. 38-9; H. R. Mis. Doc. No. 14, p. 2, Forty-sixth Congress, third session).

All these citations from the official reports disprove the "citizens' party" alone took their allotments and exercised the rights of citizenship.

A majority of the tribe refused to be governed by its provisions. Congress, satisfied of the impracticability of the law, that it was necessarily repealed, on August 6th, 1846. (Vol. 9, p. 55, Stats.)

And restored the whole tribe to their ancient form of government, with all powers, rights, and privileges held and exercised by them under their customs and usages as fully and completely as though the above-recited act (of 1843) had not been passed.

The repealing act required that the subagent of Indians affairs at Green Bay, under the direction of the governor of Wisconsin, who shall be commissioner for that purpose, shall be required to open a book for the enrollment of the names of such persons of the Stockbridge tribe of Indians as shall desire to become and remain citizens of the United States. Three months shall be allowed after the opening of the books for the enrollment, when all those desiring citizenship should come forward and enroll their names with that view, and the lands should then be divided into two districts, "Indian district" and "citizen district." The land in the "Indian district" was to be held in common and the lands in the "citizen district" are to be divided to each who becomes a citizen, and three copies of the division thus made; one shall be filed in the clerk's office of the district in which the land may be situated; one copy shall be filed in the land office at Green Bay, and the other shall be returned to the Secretary of War. And upon the receipt of said copy by the Secretary of War patents may be issued to the individual reservees who become citizens, upon the receipt of which a title in fee simple to the lot of land shall rest in the patentee, and all transfers and assignments of the land made previous to the issuance of the patent shall be null and void.

There is also a proviso in this act—

That those Indians who become citizens shall forfeit all rights to receive any portion of the annuity which may be, or may become, due the nation of the Stockbridges by virtue of any treaty heretofore entered into by this Government with said Stockbridges.

And it further provides—

That nothing in this act contained shall be construed to impair any claim which said nation may have upon the Delaware Nation to a share of the lands assigned to them west of the Missouri River.

There is no evidence of record, either in the General Land Office, or office of Indian Affairs, of this act ever being carried out, so that no member of the tribe ever became a citizen under it; therefore forfeited no rights under said act.

Albert G. Ellis, who was subagent at that time, in his report (F) of December 23, 1846, says :

That he assembled the tribe on the 6th of September at their residence and explained to them the act of August 6, 1846, after which a "book of enrollment" was opened for the entry of "the names of all such persons of the tribe as should desire to become and remain citizens of the United States," and such invited to come forward and enter their names. They refused. On the 16th day of December he again assembled the tribe, and invited such of them, if any there were, as "wished to become and remain citizens of the United States" to come forward and make their application for citizenship, and the books were closed. There appeared to me but one class of persons to be recognized among them, so far as the act of the 6th of August, 1846, is concerned, to wit, Indians. At least the proceedings to enroll applicants for citizenship had made no division of the tribe. (Ex. Doc. No. 1, pp. 770-1, Thirtieth Congress, first session.)

Again he says :

Soon after the 16th of December last, when I closed the "books of enrollment," the sachem of the tribe, Mr. Austin Quinney, called on me to declare the tract occupied by them "Indian country," and to notify the white inhabitants to leave the boundaries of the same. This request was made by him on the grounds that no person of the tribe having applied for citizenship while the books of enrollment were kept open, the whole tribe was to be regarded as Indians, and, of course, the reservation as Indian country. (Ex. Doc. No. 1, p. 773.)

The Superintendent of Indian Affairs says :

Though none of them had enrolled their names as citizens in the manner prescribed by the same law. (P. 39, report of Commissioner, 1854.)

The Commissioner of Indian Affairs relative thereto, says :

Those intending to remain citizens having refused to enroll their names—we do not know how many there are—and there is, therefore, no rule by which to make the division and assignment of the lands required by the act of 1846. (Ex. Doc. No. 1, p. 779.)

The Commissioner of the General Land Office, Hon. John Wilson, in his last report to the honorable Secretary of the Interior, R. McClelland, relative thereto says :

Up to this time, however, a period of nine years, not a single member of the nation has availed himself of this privilege of the act of 1846, and enroll his name as a citizen. (Report of April 18, 1855, on file in General Land Office.)

It was found impracticable to carry into full effect the provisions of the act of August 6, 1846, without infringing upon private rights, acquired in good faith under the act of 1843. Therefore, in order to relieve both parties from their embarrassment and to secure to each their just rights, all of which is more fully stated in the preamble to the treaty, it was claimed the treaty of November 24, 1848, was made. (Stats., vol. 9, p. 955.)

The fourth article of that treaty requires patents to issue to those who have become

citizens of the United States, a list of whom is given. But none of them had in fact become citizens, and consequently no patents were to issue. (Same report.)

Article 6 provided for the payment of \$14,504.85, for improvements of the tribe.

The seventh article authorized them to remain upon these lands one year, and to remove to the country set apart for them.

The ninth article stipulated that \$16,500 should be invested for the rising generation; and by a supplemental article directed that they should be consulted as to the location of their next home, and the President of the United States should procure for them not less than seventy-two sections of land west of the Mississippi River, and \$25,000 was granted as an indemnity for certain land on White River, in the State of Indiana, and for other lands in Wisconsin, which the Stockbridges and Munsees had been deprived of by treaties entered into with the Miamis and Delawares, and with the Menomonees and Winnebagoes, without their consent.

This treaty was made with the "Indian party," the band called the "citizens' party" not being permitted to sign, and the Munsees not being recognized at all. No one Munsee was consulted, nor did any agent or person accept or sign for them. This is admitted in "The Memorial to the Senate of the United States," made by the sachem and counselors of the tribe, of March 6, 1856. (Pp. 3, 4, 5, on file in the Senate.)

And it is not as the "memorialist" represents, that the "United States most manifestly endeavored to comply with the wishes of both parties, 'citizens' and 'Indian,' and was satisfactory to and accepted by both parties."

How could the "Indian party" legally sell out the Munsees and the "citizens' party," when they were not parties to the treaty of November 24, 1848, were ignorant of what took place, and were not bound by it? Nor could their title to those lands be impaired by such payments, not being parties to the contract. As a matter of law and fact, could the Munsees and "citizens' party" who were not parties to the contract or treaty, be bound or affected by the voluntary act of the Government with other parties?

What proof is there to show that the Munsees or "citizens' party" were ever parties to such an agreement? There is none. It is but a base fraud upon the majority of the tribe, and is a stigma upon the name of the commissioners who carried it out.

The treaty of 1848 was carried out as to the payments due at that time, but the removal of the Indians was delayed by the Government not succeeding, until in 1852, in purchasing lands of the Sioux.

This land was subsequently located in Minnesota. "When the lands in Minnesota were put at their disposal, these Stockbridges set up a claim against the Government for not removing them sooner, refused to remove, and applied for the township of Stockbridge to be ceded to them, which proposition was rejected, but a location offered to them in Wisconsin, near the Menomonee and Oneida Reservation, if they should prefer it to the location in Minnesota.

In the mean time the Stockbridges, who were parties to the treaty of 1848, have squandered the moneys paid to them under that treaty, and by the State of New York, the others have sold almost all their lots of land, and both are now poor and destitute, and it is not as the memorialist says: "those who had become citizens of the United States and taken their share in severalty had squandered it and were paupers,"

but the whole tribe were destitute. Hon. John Wilson, Commissioner of the General Land Office, in his report of July 14, 1855, says :

The Indians, in most cases, have really no homes, are broken-spirited, and have fallen into habits of idleness, having no lands to cultivate and really nothing to do.

The township is governed by supervisors, justices of the peace, and other township officers, while the Indian organization (the nation) have their sachem and councilors, and the Indians contend, whenever it is their interest, that the courts and other authorities of the State have no jurisdiction over them. Tax titles have accrued on many lots, even on those held by the Government for taxes levied under the authority of the Territory, and the confused state of affairs existing is probably without a parallel anywhere. (Commissioner's Report, 1854, p. 39, 40.)

Such was the state of affairs in the tribe and the cause of our wretched condition. The Munsees and the "citizen party" had formed a confederacy in order to protect their rights, which were being absorbed by the "Indian party," and were annually sending delegates to the Indian Office, and to Congress, to obtain redress, and the "Indian party" resisting ; while the whites who had purchased, and had become interspersed with us, by every annoyance were endeavoring to clean us out.

Application upon application was made by the Indians, when the matter was brought to the notice of the Government and the Department of the Interior, which resulted in the examination of the subject by Congress, and the passage of the general Indian appropriation bill of March 3, 1855 (Stat., vol. 10, p. 699), where there is appropriated—

For the purpose of enabling the President to treat with and arrange the difficulties existing among the Stockbridge and Munsee Indians of Lake Winnebago, in the State of Wisconsin, arising out of the acts of Congress of the 3d March, 1843, and August 6, 1846, and under the treaty of 24th of November, 1848, in such manner as may be just to the Indians, and with their assent, and not inconsistent with the legal rights of the white persons who may reside on the Stockbridge reserve, and of the claim of the United States under the treaty of 1848, the sum of \$1,500.

Hon. John Wilson, Commissioner of the General Land Office, by instruction of the Secretary of the Interior, was sent to Stockbridge to confer with Francis Huebschman, superintendent of Indian affairs at Stockbridge, in order, if possible, to settle the "difficulties" of the tribe. Thereupon a treaty was made, June 1, 1855, which was not approved by the Department, because it did not provide for the settlement of the white claimants, who it was alleged had purchased lands in good faith from the Indians. And by the honorable Secretary's direction it was referred back to the Commissioner of Indian Affairs, who thereupon instructed the superintendent of Indian affairs that "arrangements ought therefore be made at once to provide them with a home, and it should be a home alike for the Stockbridges, whether known as "citizen" or Indians, and the Munsee parties to the treaty of September 3, 1839, wherever they may be." (See letter of the Commissioner of January 7, 1856, relative to Stockbridges, to the superintendent] Indian affairs on file in Indian Department.)

And the "memorialist" is in error again when he alleges "it was determined to work up a new treaty as means for saddling back upon the tribe the pauper citizens."

And his abuse of the superintendent only shows his weakness in a bad cause. Under the instructions of January 7, a treaty was made, February 5, 1856 (11 Stats., p. 663), with the Stockbridges and Munsees:

For the purpose of relieving these Indians from their complicated difficulties by which they are surrounded, and to establish comfortably together all such of the Stockbridges and Munsees, wherever they may be located, in Wisconsin, in the State of New York, or west of the Mississippi.

By the treaty the tribe ceded and relinquished to the United States all their remaining title to the lands at Stockbridge, the seventy-second section of land in Minnesota, the \$20,000, the \$16,500 invested, and all claims, &c.

For such cession the United States agreed to give the tribe a tract of land in Wisconsin, near the Menomonee Reservation, of sufficient extent to provide for each head of family, and others lots of land of 80 and 40 acres, and the sum of \$41,100 and \$20,550 to enable them to remove, and by amendment \$18,000.

And by the treaty of February 11, 1856, with the Menomonees the United States purchased two townships of land for the Stockbridge and Munsee Indians. (11 Stat., p. 679.)

By the third article of the treaty of February 5, 1856, the lands were to be allotted among the individuals and families of the tribe "under the direction of the superintendent of Indian affairs," which was done immediately after their removal to Showano, and is on file in the agent's office at Keshena, Green Bay Agency. Again the "memorialist" is in gross error when he alleges, "such was not the case."

The United States was to hold the same in trust for such person, and a certificate should be issued guaranteeing to the holder their ultimate title to the land "should any of the heads of families die before the issuing of the certificate of patents provided for the same shall issue to their heirs."

By the fifth article it designates—

The persons to be included in the apportionment of land and money to be divided and expended under the provisions of this agreement shall be such only as are actual members of the said Stockbridge and Munsee tribes (a roll or census of whom shall be taken and appended to this agreement), their heirs and legal representatives, &c.

And is not, as the "memorialist" alleges—

It contemplated bringing back as members of the tribe all who had taken their share of the common country owned at the time of the passage of the act of 1843, and abandoned the tribe.

The treaty also provided—

That none of the said Stockbridges and Munsees shall be entitled to any of these lands or the money stipulated to be expended by these articles, unless they remove to their new location within two years from the ratification hereof.

The "memorialist," by his own admission, therefore, forfeited his right when he declares "the anti-1856 treaty party did not go to the new reservation gotten from the Menomonees till the fall of 1859," and it is equally certain all the tribe must have accepted of the treaty, as they all removed to the reservation and received its benefits, and indeed it is absurd to say "it was not satisfactory to the tribe, and the members of the tribe did not accept it as a settlement of former difficulties." (See memorial to the Senate by the sachem and councilors of the tribe relative to the treaty of February 5, 1856, of March 6, 1856, pp. 1-5, also letter of the sachem and councilors of the tribe relative to the same, of July 7, 1856, to the Commissioner, on file in Indian Department.)

Article 17 provides—

So much of the treaties of September 3, 1839, and of November 24, 1848, as is in contravention or in conflict with the stipulations of this agreement, is hereby abrogated and annulled.

Article 18 provides—

This instrument shall be binding upon the contracting parties whenever the same shall be ratified by the President and the Senate of the United States.



This treaty was approved by the Department, accepted by the tribe, as a settlement of former "difficulties," and was ratified by the Senate with certain amendments, April 18, 1856, and approved by the President September 8, 1856, and was not, as the memorialist alleges—

Bribery and forgery were resorted to by Huetschman [and] the treaty so obtained was rushed to Washington City and ratified by the Senate \* \* \* before those who were opposed to the treaty were able to prepare and present their statement of facts and objections to the treaty.

This assertion is a base fabrication of facts and would refer you to the letter of the superintendent to the honorable Commissioner of Indian Affairs of February 23, 1856. (Rev. Ind. Treaties, p. 963.)

To show that the treaty was publicly made, the senate and assembly of Wisconsin, by a joint resolution "that his excellency the President and the honorable Senate of the United States be respectfully requested speedily to ratify and carry into effect the said arrangement, approved March 31, 1856. (See p. 273, Res. No. 4, Laws of Wis., 1856.)

The sachem and councilors sent a "memorial to the Senate" in regard to the treaty of February 5, 1856, praying it may be "confirmed with amendments." (Memorial of March 6, 1856, on file in the Senate.)

To show that the Department accepted of the treaty, see Revised Indian Treaties, p. 962.

The senate and assembly of Wisconsin, by a joint resolution, assented to the locating of the Stockbridge and Munsee Indians on the lands of the Menomonees. (See Res. No. 5, p. 273, Laws of Wisconsin, 1856.)

The memorialist is in error again when he alleges:

The one hundred and seventy-seven souls of the tribe, under the 1848 treaty, and their descendants could not and did not receive as much money under the 1856 treaty as the 1848 treaty secured to them.

The Commissioner of Indian Affairs, in 1852, in auditing John W. Quinney's claim in the Stockbridge Nation, directed an examination to be made in order to see how much he was entitled to.

The result of this examination shows that the entire sum now due and invested for the Stockbridges, including all balances not yet paid over, the \$30,000 per Senate amendment to the treaty of 1848, and the value of 72 sections of land, to which they are entitled under said amendment, estimated at \$1.25 per acre, is \$102,735. The census attached to the treaty 1848 gives the number of individuals composing the tribe as 177, making his interest in the above amount as in 177, or about \$580. (Letter of Commissioner to J. W. Quinney, May 12, 1852.)

The memorialist's assertion was not based upon a clear and comprehensive knowledge of the facts, and it resulted from an imperfect acquaintance with the financial affairs of the tribe with the Government.

By the treaty of February 5, 1856, he received much more, and I do not see wherein it was not a benefit to the representatives of the one hundred and seventy seven souls; and it was accepted by all parties, which is evident.

Thus it appears that the treaty of February 5, 1856, was satisfactory to the tribe. They removed to the new reservation at Shawano, where they had lands allotted, as per treaty, and made improvements, built houses, and received their improvement and removal moneys, and cultivated the lands and resided there in peace until 1871, at which time a minority of the tribe, by distortion and gross misrepresentation, aided by outside parties, obtained the passage of a law through Congress, on the 6th of February, 1871, entitled, "An act for the relief of the Stockbridge and Munsee tribe of Indians in the State of Wisconsin. (Stats., vol. 16, 404.)

This act provided, "for the appraisement of the lands, sale, enrollment and the allotment, of lands," &c.

In accordance to this act, W. T. Richardson, then agent of the Stockbridge and Munsee tribe of Indians, was, on the 30th of August, 1871, appointed by the Commissioner to make the enrollment under the act, "but owing to the factious opposition manifested by the officers of the tribe, in unreasonable demands for enrollment of certain persons who were excluded by the terms of the act, and the refusal of such officers to sign the rolls unless prepared in accordance with their views, that it became necessary to suspend them from office and order a new election." (H. Mis. Doc. 14, Forty-sixth Congress, third session, p. 8.)

In the mean time Mr. Richardson was relieved from his task, because he went in conformity to the law.

On the 24th of March, 1874, H. R. Wells was appointed to make the enrollment. On the 1st of April, 1874, he assembled the tribe for the purpose of completing the enrollment, and stated that "his instructions were that he should go according to the law of '71," yet allowed persons to enroll whom the law prohibited from enrolling, and when his attention being called to these points, said: "The headmen and I have the power to make these rolls, the law gives us that power, and you have no right to dictate who shall go upon the rolls."

This overt act plainly showed that our rights were jeopardized. But we pass over the iniquitous conduct of the commissioner and so-called headmen, and the illegal and unjust proceedings under this law, whereby the majority were compelled to submit to the dictates of the minority.

On the 8th of April, 1874, Commissioner Wells made his report, accompanied by two "rolls" signed by the sachem and councilors (or rather usurpers) when in fact they were made the first of April and were certified by parties who were prohibited from enrolling as not being of "Stockbridge or Munsee descent."

These rolls, notwithstanding our protest, were approved the 3d of June following, and his supplemental report was approved the 29th of the same month.

Our first province seems to be to show that Mr. Wells did not go in accordance to the act of 1871, which provides, in the sixth section:

Nor shall any person, or his or her descendants, be entered upon either of said rolls who may have heretofore separated from said tribe and received allotments of lands under the act of Congress for the relief of the Stockbridge tribe of Indians of March 3, 1843, and amendment of August 6, 1846, or under the treaty of February 5, 1856, or who shall not be of Stockbridge or Munsee descent.

Now, if this act was purely mandatory in its provision as regards the enrollment, the commissioner making the enrollment had no power but to execute the law as he found it. Has he done so? We emphatically answer no.

It will be seen that the act discriminates who are not to be enrolled.

1. Those who may have heretofore separated from said tribe and received allotments of lands under the act of March 3, 1843.
2. Under the amendment of August 6, 1846.
3. Under the treaty of February 5, 1856.
4. Who shall not be of Stockbridge or Munsee descent.

Therefore it is evident these parties under the act could not legally be enrolled, as it prohibits them from enrolling; yet they are enrolled, while a large portion of the tribe are rejected and denied their rights and privileges in the tribe, when they occupy the same status in the tribe as those who were permitted by favor to be enrolled. This is shown

by the allotment made August 24, 1843 (on file in the General Land Office); all received allotment of lands.

The acts above recited clearly show the fallacy of the construction placed upon the act of February 6, 1871, by the commissioner appointed to carry it out. When the enrollment was made a large portion of the tribe were arbitrarily and wrongfully denied enrollment, for reasons existing before the treaty of 1856, and which apply with equal force to those who are enrolled under the law of 1871.

Now, if the act of 1846 repealed the act 1843 as to any of the tribe, it certainly did as to the whole, and if the repealing act of 1846 restored the tribe to their "ancient form of government" at all, it must have restored the whole tribe, irrespective of party or faction, as wholly and completely as though the act of 1843 had not been passed. The tribe was thereby reconstituted of the same members which before constituted it, to the exclusion of none. To be sure, the tribe appointed commissioners, who divided the lands in conformity to the act, but this proceeding was rendered of non-effect by the Government of the United States in neglecting to issue patents, and confirm these allotments as provided for by the act of 1843; the repealing act of 1846 would necessarily render all such proceedings *utterly null and void* as to the whole tribe, and "justifies *in limine* the inquiry whether it was not inconsistent with the tribal rights of the Stockbridges, and consequently of non-effect from the beginning."

Hon. John Wilson, Commissioner of the General Land Office, in his report of April 18, 1854, says: "The Stockbridges at the passage of the latter act (1846) were, in my judgment, as fully reinstated in all their Indian rights to these lands as if the law of 1843 had never existed."

The same opinion is expressed by the committee who repealed the act 1843 (Rep. 447, Twenty-ninth Congress, first session, p. 3).

The supposition of the commissioner making the enrollment of 1871, that the act of 1846 was amendatory of the act 1843, confirming the allotment made by the latter act, was utterly erroneous. The act of 1846 provided for all to become "citizens," but none availed themselves of its provisions for the reason that the act provides, "Those who become 'citizens,' should forfeit all rights to annuities from the Government or other claims due them by treaties."

The same reference is made by Albert G. Ellis, subagent, in his report to Governor Dodge, of the 16th of July, 1847 (Ex. Doc. No. 1, p. 782). And the same is alluded to by the Rev. Cutting Marsh (same document, p. 776).

Hon. E. C. Kemble, United States Indian inspector, in his report of November 12, 1877, says:

But whatever their status during the three years which intervened before the passage of the law of 1846, that act, repealing the law '43 and restoring the Stockbridge tribe to their ancient form of government, with all powers, rights, and privileges, &c., would seem to have taken away their rights as citizens; while the refusal on part of any member of the tribe to avail themselves of its provisions made in the law (of 1846) for their becoming citizens left them as they were before the act of 1843.

The same allusion is made in regard to "citizenship" by the Commissioner of the General Land Office in his report of the 18th, 1855.

As to citizenship, which was alleged constituted a bar against their being enrolled, it would be hard to show, nor can it be shown by any treaty or act they ever were separated from the tribe finally and conclusively. If they were "citizens" to the full intent and meaning of the term, then were the other members of the tribe "citizens" when they made the treaty of 1848. (Rep. E. C. Kemble, November 12, 1877.)

The circumstances under which the law of 1871 was passed, and the proceedings under it were such as to justify the belief that misrepresentations and fraud were resorted to by those who urged the passage of the law and had charge of the enrollment under it and the manner in which its provisions were executed, constitute a flagrant wrong against the tribe which ought to be redressed as speedily as practicable. (*Ib.* report, also letter of E. C. Kemble to the Hon. Secretary of the Interior of March 16, 1882.) (*Ib.* report, also letter of E. C. Kemble to the Hon. Secretary of the Interior of March 16, 1882.)

Now, as to which party stood before the Government best, it does not require much acumen to discover.

The grants of two townships of land under treaty of 1831 (7 Stats., pp. 342 and 405), could not have been for half of the tribe; besides, the old claims referred to in the amendment of the 1848 treaty, wherein it says:

Whereas the Stockbridge and Munsee Indians, by their chiefs and agents, have continued to prosecute their said claims during the last twenty years at their own expense, &c.

Taking in consideration the last twenty years would necessary fetch it back to 1828, when not a scintilla of "citizenship" or separation of the tribe was perceptible; besides it was for lands sold by the Government which the tribe owned in Indiana in 1808, already referred to. For this the Government granted seventy-two sections of land and the \$25,000 to wipe out old claims. This land was exchanged for lands at Shawano and "intended for a home for all, both 'citizens' and Indians, and the Munsees parties to the treaty of September 3, 1839."

The old claims referred to were also due the "old citizens," and their share of the annuities of the tribe, in consideration for which the grants were made by the treaty of 1856. Up to the ratification of this treaty they had received lands and money, their share of the \$3,000, as part settlement of the claim against the Miami Indians, a share of the unpatented allotments, about 60 acres each of lands at Lake Winnebago, valued at \$2.50 to \$5 per acre, their share of the annuity payments being made only up to 1843, "because the act took away the authority of sachem and councilors, and there was no one to receive the money or no authority to pay it out." (See letter of Commissioner of Indian Affairs, April 16, 1847, p. 779, Ex. Doc. No. 1.)

It cannot be alleged that they sold out their lands. It appears by the Commissioner's report of November 30, 1847, "that both parties have sold the lands which were allotted to them." (Same document, pp. 441, 442, 789, 790, and 794 to 810, inclusive.)

Neither can it be alleged as a bar to their being recognized as "Indians" that they voted at the elections and held office, and therefore were citizens, when both parties held offices and voted at all the elections. (See same document, No. 1, pp. 789, 790, 797, 798.)

Where is your criterion to exclude one party? Where is your line of demarkation to discriminate who are "citizens" and who are not? We are unable to see, when all the tribe occupy the same status in regard to "citizenship."

We offer the following consideration in support of bill 2889:

1. That the equity of our claim has been repeatedly reported favorably and uniformly recognized, notably to the Forty-fourth, Forty-seventh, and Forty-eighth Congresses, and the executive branch of Government upon the subject. We beg to refer you to Hon. E. C. Kemble, United States Indian inspector's report of November 12, 1877, and more especially to the report of the honorable Committee on Indian Affairs of the House of Representatives, Forty-eighth Congress, first session. (Report No. 1054.)

2. That the treaty of February 5, 1856, was satisfactory to the tribe, and accepted by the Interior Department, ratified by the Senate and proclaimed by the President.

3. That they are signers of said treaty, in conformity to article 5, and their names appear upon the rolls and census of said treaty.

4. That a treaty cannot be abrogated without the consent of both parties interested.

5. That the act of 1871, drawn in view of the '56 treaty, has no binding force.

6. That it cannot be taken as the repeal of the '56 treaty, as it is in conflict with said treaty, and with section 2029, Rev. Stat., p. 366.

7. That a treaty after being executed and ratified by the proper authority becomes the supreme law of the land, and the courts cannot go back of it for the purpose of annulling it, than it can an act of Congress. (1 Cranch., 103, 6 Pet., 735; 10 How., 442; 2 Pet., 307, 309, 314; 3 Story Const. Law, p. 695.)

8. That they have not separated from the tribe, but have resided upon the reservation and lands in peaceable possession for over twenty years, and they are "Indians" and not "citizens."

9. That the treaty of 1856 was not an illegal interference by the United States with the possession of the Stockbridge tribe.

10. That the Government is bound to carry out in good faith the treaty.

With these facts of law before you your "memorialists" leave the subject to the wisdom and discretion of your honorable bodies, and in doing so we do not approach you as beggars, but only ask what justice and equity demands for us, and we earnestly hope that Congress will act promptly in affording us relief from our grievances, and pass House bill No. 2889.

All of which is most respectfully submitted.

J. C. ADAMS,  
*For and in behalf of the Stockbridge  
and Munsee tribe of Indians.*

STOCKBRIDGE, February 20, 1885.

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