

MIAMI INDIANS OF INDIANA.

FEBRUARY 17, 1887.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PERKINS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 469.]

The Committee on Indian Affairs, to whom was referred House bill 469, have carefully considered the same, and report it back, and as amended recommend its favorable consideration.

Under various treaties with the once powerful tribe of Miamis of Indiana the Government acquired large tracts of the best land in Indiana, about 500,000 acres, and in return agreed by treaty of 1854 to grant to the Indians certain lands in severalty, about 70,000 acres, and 640 acres for school purposes, and \$231,004, the interest on said sum only to be paid to said Indians at 5 per cent. for 25 years, when the principal was to be paid. The lands to the Indians, as it appears from Article 2 of treaty of 1854 (page 513, Book Treaties), were not to be liable to levy, sale, execution, or forfeiture, except by consent of Congress. In violation of this provision the land was placed upon the tax duplicates, executions were levied, and it became necessary for the Indians to employ attorneys to protect rights guaranteed by the treaty, and the sum of \$5,120 was paid Vanderwater and McDowel, which the Interior Department decided to be reasonable, but the amount was taken from the final payment to the Indians, which clearly should not have been done.

A provision to Article 4, treaty of 1854, reads as follows:

That no persons other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in the presence of the Commissioner of Indian Affairs, in June, eighteen hundred and fifty-four, comprising three hundred and two names as Miami Indians of Indiana, and the increase of the families of the persons embraced in said corrected list, shall be recipients of the payments, annuities, commutations, moneys, and interest hereby stipulated to be paid to the Miami Indians of Indiana, unless other persons shall be added to said list by the consent of the said Miami Indians of Indiana, obtained in council according to the custom of Miami tribe of Indiana. (See page 516, Book Indian Treaties.)

In violation of this expressed provision other Indians were allowed to participate in the drawing of the annuities for thirteen years, when it was properly decided they were wrongfully on the roll; but the money that had been improperly paid to said Indians was not returned to those entitled to it. The bill is therefore only intended to do what ought heretofore to have been done, viz, reimburse these Indians to the amount improperly and wrongfully taken from them. In support of these views the letter of the honorable Commissioner of Indian Affairs is made a part of this report; also an official dispatch, which shows

the payment to Indians other than those named in the treaty was objected to. We also make a petition to Congress, which further shows the Miamis were dissatisfied with the bogus Indians being allowed to participate in the annuities.

While the Government agreed to pay the Indians 5 per cent., your committee compute interest on the amount at only 3 per cent., the present rate of interest, which will be satisfactory to the Indians.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, February 14, 1887.

SIR: In compliance with your verbal request, I submit the following statement in reference to certain Miami Indians of your State who were, under act of June 12, 1858 (U. S. Stats., 11, p. 332), enrolled with the three hundred and two persons named in the Senate amendment to the treaty of 1854 (U. S. Stats. 10, p. 1099).

After the removal of the larger portion of the Miami Indians of Indiana to their new homes in the west, in 1854, a number belonging to the tribe and who remained in Indiana, including the names of those who had been objected to by the delegations of the tribes from the Indian Country and from Indiana who appeared before the Commissioner of Indian Affairs during the summer of 1854, and just before the conclusion of the treaty of that year, as not being of Miami blood and that they were not considered by them to belong to their tribe, and who were consequently omitted from the list agreed upon at the making of the treaty and left unprovided for, called the attention of the Government to their case and insisted upon being restored to their tribal rights. Their claim was laid before Congress in May, 1858, with a full report in reference to the descent of each claimant, showing that they had all proved themselves to be of part Miami blood and recommending the legislation necessary for their relief. The result was the act of June 12th of that year, above referred to, section 3 of which reads:

"That the Secretary of the Interior be, and he is hereby, authorized and directed to pay to such persons of Miami blood as have heretofore been excluded from the annuities of the tribe since the removal of the Miamis in 1846, and since the treaty of 1854, and whose names are not included in the supplement to said treaty, their proportion of the tribal annuities from which they have been excluded; and he is also authorized and directed to enroll such persons upon the pay list of said tribe and cause their annuities to be paid to them in future, provided that the foregoing payments shall be in full of all claims for annuities arising out of previous treaties. And the Secretary is also authorized and directed to cause to be located for such persons each 200 acres of land out of the tract of 70,000 acres reserved by the second article of the treaty of June 5, 1854, with the Miamis, to be held by such persons by the same tenure as the locations of individuals are held which have been made under the third article of said treaty."

By virtue of this act, sixty-eight persons who were proved to be of part Miami blood were added to the list of Miamis and became recipients of the annuities and lands from which they had been excluded since the removal of the tribe in 1846 and since the treaty of 1854, and in the winter of 1862, after a careful investigation into the claims of three grandchildren and two great-grandchildren of John Baptiste La Bresche, the Secretary decided that they also were of Miami blood and entitled to the benefit of the act of 1858; and by his direction they were enrolled with their tribe and all arrears paid to them, thus making altogether an addition of seventy-three persons to those named in the list agreed upon at the treaty of 1854.

These seventy-three and their descendants continued to draw a share of the annuities payable to the Miamis of Indiana up to and including the year 1867, or, in all, thirteen annual payments, when by act of March 2, 1867 (14 Stats., page 492), making appropriations for the current and contingent expenses of the Indian Department for the fiscal year ending June 30, 1868, there is appropriated to the Miamis of Indiana, for interest on \$221,257.86, as provided for in the treaty of 1854, \$11,062.89; and section 5 of same act is as follows: "That the sum hereinbefore appropriated to the Miamis of Indiana, or which shall hereafter be appropriated to them, shall only be paid to such persons as may be, upon the opinion of the Attorney-General, legally entitled to the same under the provisions of the treaty with said Indians of June 5, 1854, and Senate amendments thereto, regardless of any subsequent legislation."

Accordingly, the question was submitted to the Attorney-General, who, after reviewing the treaties and legislative acts under which the Miami Indians became entitled to their annuities, states as follows:

"The appropriation of \$11,062.89 to the Miamis of Indiana, by act of March 2, 1867, is directed to be paid only to such persons as may be legally entitled to the same

under the treaty of 1854, and Senate amendments thereto, without reference to subsequent legislation. From the foregoing there does not seem to be any room for doubt as to who these persons are. In the body of the treaty they are referred to under the general descriptions of Miami Indians of the State of Indiana and Miamis of Indiana; but these must be understood as comprehending only such Indians as are more particularly designated in the amendment, who may be classified and described as follows:

"(1) Persons embraced in the *corrected list* agreed upon by the Miamis of Indiana in the presence of the Commissioner of Indian Affairs in June, 1854, comprising 302 names.

"(2) The increase of the families of persons included in said list.

"(3) Persons who shall be added to said list by the consent of the said Miamis of Indiana, obtained in council, according to the custom of the Miami tribe. In my opinion the persons here indicated, and no others, are legally entitled to the above mentioned appropriation under the said treaty and amendment, without reference to subsequent legislation."

In view of this opinion a special agent, M. W. Wines, of Fort Wayne, Ind., was instructed to prepare a new roll, which should contain the names of all Indiana Miamis then living whose names appeared on the roll of 1854, and the names of the descendants of all who appeared there and who were then alive, and no other.

Accordingly, Agent Wines submitted a roll which, after being duly examined in this office and found correct in all important particulars, was returned to him approved, and he was directed to, and did, pay to the persons named thereon all of the \$11,062.89 above referred to.

With this roll Agent Wines also submitted a roll containing the names of 119 persons who, under the decision of the Attorney-General, were excluded as not entitled to a share in this money, which was also approved, and there is no record in this office that any of these 119 ever obtained the requisite consent of the Miamis of Indiana in council, according to the custom of the tribe, to have their names added to the list agreed upon in June, 1854, and since the above payment was made by Agent Wines for the fiscal year ending June, 1868, and at each subsequent payment of annuity money since that year, up to and including the final payment of the principal sum of \$221,257.86, by Hon. Calvin Cowgill in 1862, these 119 persons and their descendants have been excluded.

Repeated efforts have been made in this office to trace the original 73 persons who were added to the Miami rolls of 1854-'55 through the rolls for the subsequent twelve payments, but owing to the brief manner of enrolling Indians for payment followed some years back, and the frequent changes in the family relations and manner of spelling Indian names, this was found to be impracticable; neither can the 119 persons finally excluded under the opinion of the Attorney-General be traced back for the same reasons, but it is believed that the total amount paid to these 73 or 119 persons named can be arrived at sufficiently close to satisfy all parties by the following method, viz: To find the number who drew a share of this money each year from 1854 to 1867, inclusive, we must first take from the 119 excluded 11 who were born subsequent to the payment of 1867, as appears by the records in this office, which leaves but 108 who actually shared in the payment of 1867 or could have shared in the other payments. To this 108 we add the original 73, making 181, which, divided by 2, gives an average enrollment for the thirteen years of 90½. In the same way we take the amount of one per capita share as the same appears on the rolls for each of the thirteen years in question, viz:

| Fiscal year. | Amount. | Fiscal year. | Amount. |
|----------------|---------|----------------|---------|
| 1854-'55 | \$41 49 | 1862-'63 | \$67 00 |
| 1855-'56 | 55 50 | 1863-'64 | 25 00 |
| 1856-'57 | 64 66 | 1864-'65 | 25 00 |
| 1857-'58 | 52 11 | 1865-'66 | 51 05 |
| 1858-'59 | 43 85 | 1866-'67 | |
| 1859-'60 | 48 71 | | |
| 1860-'61 | 28 51 | Total | 531 19 |
| 1861-'62 | 28 51 | | |

Which, multiplied by 90½, the average number of the 73 or 108 who shared in these payments, gives \$48,072.69 as the total amount so paid, or, say, in round numbers, \$48,000, which is no doubt very nearly correct—I should think sufficiently so for Congress to act upon in case it is proposed to pay it or any part of it to the original 302 persons on the corrected list of 1854, and to their descendants.

In explanation, you are informed that the payment for the fiscal year 1856 of a per capita of \$55.50 was not regular current interest, but back unpaid annuity, and that

the payment for the fiscal year 1856 was made at the same time that the payment for 1865-'66 was made, the funds appropriated for the year 1866-'67 being used for that purpose, and the payment for the last-named year was subsequently provided for and paid, but no part of it was ever afterwards paid to the 73 or 108 persons dropped.

As these payments were recommended by a previous head of this Department, and made under Congressional authority. I do not feel warranted in making any suggestion or recommendation in the premises.

In reply to your verbal request for a statement of fees paid attorneys for Miami Indians, and explanation of the nature of the duties they performed, and an opinion as to whether they should have been paid by the Government or by the Indians, I inclose herewith a copy of a report by this office to the honorable Secretary of the Interior of January 2, 1886, which contains the names of the attorneys employed, refers to the nature of the duties they performed, and states the amounts paid to them.

As these attorneys were employed under a previous administration of the affairs of this Department, and as I have no reason to suppose that their contracts with the Indians were not closely scrutinized and the fees paid believed to be a reasonable and proper charge against said Indians before being approved, I must respectfully decline to give an opinion in the matter.

Respectfully,

J. D. C. ATKINS,
Commissioner.

Hon. GEORGE W. STEELE,
House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, January 2, 1886.

SIR: I have the honor to submit below a statement of certain attorney's fees paid by Miami Indians, to be considered in connection with my report of 11th ultimo, in reference to that section of the act approved March 3, 1885 (Pub. 87, p. 24), calling for a report of any indebtedness by the Government to the Miamis, of Indiana and Kansas, for moneys due to them and alleged to have been improperly paid to other Indians, including attorney's fees necessarily paid by said Indians, viz:

| | | |
|-----------|---|-------------|
| 1874. | | |
| Aug. 5. | To G. A. Colton, attorney, services | \$1, 258 99 |
| | To Ewing & Embry, assignee of Colton, services | 839 32 |
| | To John L. Pendry, assignee of Colton, services | 699 43 |
| Sept. 30. | To G. A. Colton, services | 1, 954 50 |
| | To Ewing & Embry, assignees of Colton, services | 2, 550 00 |
| | To John L. Pendry, assignee of Colton, services | 2, 125 00 |
| | To Charles Sims, assignee of Colton, services | 1, 870 50 |
| 1878. | | |
| July 23. | To Ewing & Embry, assignees of Colton, services | 475 92 |
| Sept. 27. | To G. A. Colton, services | 793 21 |
| | To Ewing & Embry assignees of Colton, services | 317 29 |
| 1882. | | |
| Mar. 16. | To Vandeventer & McDowell, services | 5, 102 00 |
| 1884. | | |
| Feb. 5. | To G. A. Colton, services | 1, 259 87 |
| Apr. 14. | To G. A. Colton, services | 497 70 |
| Nov. 22. | To G. A. Colton, services | 1, 011 10 |
| | | <hr/> |
| | | 20, 754 83 |

The above payments, except that to Vandeventer & McDowell, were made under contract between the Miamis of Kansas and G. A. Colton, dated March 12, 1873, being a fee of 10 per cent. on certain treaty moneys and on proceeds of lands sold under act of March 3, 1873 (U. S. Stats., 16, p. 627).

That to Vandeventer & McDowell was paid for services rendered to the Meshingoma band of Miamis in Indiana.

All the above claims for attorney's fees were thoroughly scrutinized and approved by the Department before payment; were considered reasonable and believed to be necessary.

Respectfully,

J. D. C. ATKINS,
Commissioner.

The SECRETARY OF THE INTERIOR.

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

The undersigned, your petitioners, would, to your honorable body, most respectfully represent that they are Miami Indians residing in the State of Indiana, and that they and their families and the persons whom they represent are the individuals referred to as the Miami Indians in the Senate amendment to the fourth article of the 5th of June, 1854, between the United States and the Miami Indians, and whose names are embraced in the corrected list referred to in said treaty amendment; and your petitioners respectfully call your attention to that provision which stipulates that no person other than those embraced in the corrected list agreed upon by the Miamis of Indiana, in the presence of the Commissioner of Indian Affairs, in June, 1854, comprising three hundred and two names as Miami Indians of Indiana, and the increase of the families embraced in said corrected list shall be recipients of the payments, annuities, commutations, moneys, and interests hereby stipulated to be paid to the Miamis of Indiana, unless other persons shall be added to said list by the consent of said Miami Indians of Indiana, obtained in council, according to the custom of the Miami Indians of Indiana.

Your petitioners further show that the Secretary of the Interior, in pursuance of the 3d section of an act of Congress approved June 12, 1858, entitled "An act making supplementary appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1859," has caused to be added to said list the names of some sixty persons, as we are informed. That the same have been added without our consent and against our wishes, and have been paid out of our moneys. That we conceive that if the section of the act referred to was intended to refer to the Miamis of Indiana, as it is construed by the Commissioner of Indian Affairs, it is in direct violation of said treaty.

Your petitioners, therefore, humbly pray that said 3d section of the act referred to, or so much thereof as violates their rights and appropriates their money for the benefit of persons whom they do not recognize, may be reported, and that the moneys heretofore diverted to that purpose may be refunded. And in duty bound your petitioners will ever pray, &c.

Done in council on the 1st day of February, 1859, at the house of Gabriel Godfrey, on the Mississinewa River, Miami County, Indiana.

(Signed with an x mark:)

John B. Bronellitt or Te-quah-yah, Peter Bondie or Waw-pow-pe-tah, Me-shing-o-me-sha, Pim-y-tine-aw, Kil-oc-com-ach, La-maw-wah, Shaw-aw-pe-ne-maw, Waw-caw-co-now, Po-con-ge-ah, Len-e-pe-shew-saw, Waw-pe-man-gnaw, Po-can-ge-ah, Ah-toh-a-toh, Pe-me-to-sin-wah, Ke-oh-cat-wah, Shp-pen-do-ciah, Ke-oh-cat-wah, Pa-len-swah, My-ac-gne-ah, Gabriel Godfrey, We-shing Goodboo, So-mile-le-jes-ion, Sho-quang-oh, William Godfrey, Tow-wah-quah-iey.

HON. GEORGE W. STEELE:

No written protest was filed by Miami Indians at each payment against allowing Indians placed on roll in 1858 to participate in annuities. Several of the agents making payments, however, report that these Indians were objected to.

J. D. C. ATKINS,
Commissioner.

H. Rep. 4109—2