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### Pre-emption rights – Settlers on Miami Indian lands

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H.R. Rep. No. 468, 28th Cong., 1st Sess. (1844)

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PRE-EMPTION RIGHTS—SETTLERS ON MIAMI INDIAN  
LANDS.

[To accompany bill H. R. No. 16.]

MAY 2, 1844.

Mr. COLLAMER, from the Committee on Public Lands, made the following

REPORT :

*The Committee on Public Lands, to whom was referred the bill to grant pre-emption rights to actual settlers on the lands acquired by the treaty from the Miami Indians, in Indiana, report :*

That the lands in Indiana, acquired by treaty with the Miami Indians, are among the most fertile and choice lands in our country, and have cost this Government, after deducting the school reservations, more than one dollar and twenty-five cents per acre ; and, therefore, in all the pre-emption laws passed since the Indian title was extinguished to these lands, they have been excepted therefrom. The committee consider it now improper and unjust to extend the privilege of taking these lands at the price of one dollar and twenty five cents per acre first to those who have gone on to the land in open contempt of the public laws which made these lands an exception to the general laws of pre-emption, while the rest of the citizens have quietly submitted to the laws, and are waiting until these lands are legally offered for sale, to make regular purchases thereof. The committee refer to the letter of the Commissioner, hereto annexed. The committee therefore report that said bill ought not to pass.

GENERAL LAND OFFICE,  
January 29, 1844.

SIR : I have had the honor to receive your letter of inquiry, respecting the proviso in the acts of 1838 and 1841, forbidding pre-emption claims on the Miami and Pottawatomie reservations in Indiana, and requesting to be informed of the reasons which led to the restriction, and whether they still exist. There is no correspondence or data on the files of this office which will throw any light on the subject ; and in reference to those of Congress, I can only perceive that, when the first proviso was adopted, (which affected the Miami lands acquired by the treaty ratified December 22, 1837,) the measure originated in the House, upon a report from the Committee on Public Lands, and was carried in the Senate by a vote of 42 to 2. The law which was intended to protect the Pottawatomie lands was that of 1841 ; at which time, however, they were all, or nearly so, taken up by pre-emp-

tions; and the proviso in the latter law also extended the restriction to the other *Miami* reservations acquired by the treaties of February, 1839, and June, 1841, as well as that of December, 1837. The vote by which the measure was adopted in the first place, and the manner in which it was followed up in legislation, as the occasions occurred, indicate a thorough satisfaction of the propriety of the measure; and whatever the reasons were which governed at the time, I am not aware that there is any change of circumstances to render them less forcible at present. It was supposed that the Miami reservations embraced some of the most desirable lands in the State of Indiana—a supposition much strengthened by the fact that the *Miamies* had mingled much with the whites; that their chiefs were of the mixed breed; and that they were astute men, who knew well the value of lands from fertility of soil and advantage of locality. Consequently, the purchase being more onerous upon the Government than under ordinary circumstances, the restriction was probably deemed necessary to indemnify it, so far as to place the Government upon something like the same footing as in ordinary purchases. The reservation was surrounded by the improvements and habitations of our citizens, which added much to the value of it; and doubtless it was also considered that this reservation was a proper resource to enable the General Government to do justice to the State of Indiana by allowing her to select choice lands in lieu of those from which she had been excluded along the line of the Wabash and Erie canal. These reasons, if such prevailed at the time, so far from being impaired since, have acquired additional strength. As to the expediency of annulling the proviso, it may now be said that many worthy persons have settled upon this reservation, and made improvements upon it, and that therefore they ought to have pre-emption rights; but I respectfully submit whether it should not also be borne in mind, that many worthy citizens who equally desired those lands have respected the laws, and forbore to enter upon them, and whether it would not be a greater hardship upon them to give others the preference on that account.

I have only to add, that this matter is, of course, entirely with Congress; and that these remarks have been made in compliance with the call of the committee; and that whatever may ultimately be determined on, will be cheerfully carried out by this office.

With great respect, your obedient servant,

THOMAS H. BLAKE,  
*Commissioner.*

Hon. JOHN W. DAVIS,  
*Chairman of the Committee of Public Lands,  
House of Representatives.*