

University of Oklahoma College of Law

University of Oklahoma College of Law Digital Commons

American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899

12-13-1867

Letter from the Secretary of the Interior, in regard to the issuing of patents to the Me-shin-go-me-sia band of Indians

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indigenous, Indian, and Aboriginal Law Commons](#)

Recommended Citation

H.R. Exec. Doc. No.45, 40th Cong., 2nd Sess. (1867)

This House Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact Law-LibraryDigitalCommons@ou.edu.

ME-SHIN-GO-ME-SIA BAND OF INDIANS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

IN REGARD TO

The issuing of patents to the Me-shin-go-me-sia band of Indians.

DECEMBER 13 1867.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., December 13, 1867.

SIR: I have the honor to transmit herewith a draught of a bill providing for the issuing of patents to the band of Me-shin-go-me-sia, for the lands embraced in the Miami Indian reservation in the State of Indiana, together with copies of the report of the acting Commissioner of Indian Affairs, of the 12th instant, and accompanying papers, in relation to the subject, to which the favorable consideration of Congress is respectfully invited.

Very respectfully, your obedient servant,

O. H. BROWNING.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., December 12, 1867.

SIR: I have the honor to return herewith the communication to yourself from Me-shin-go-me-sia and other Miami Indians, living upon the reservation in the State of Indiana, containing a census of the persons belonging to Me-shin-go-me-sia's band, and asking that the lands reserved to the band of Me-to-sin-ia, by the second article of the Miami treaty of November 6, 1838, (vol. 7, Stat. at L., pages 509 and 510,) be patented to the members of Me-shin-go-me-sia's band, referring to the seventh article of the Miami treaty of November 28, 1840, as amended by the Senate,) Stat. at L., vol. 7, pp. 583 and 585.)

By the treaty of November 6, 1838, above referred to, there was reserved for the band of Me-to-sin-ia a tract of land, described and bounded as follows, viz: "Beginning on the eastern boundary line of the Big reserve, where the

Mississinewa river crosses the same ; thence down said river with the meanders thereof to the mouth of the creek called Forked branch ; thence north two miles ; thence in a direct line to a point on the eastern boundary line, two miles north of the place of beginning ; thence south to the place of beginning ; supposed to contain ten square miles ;" the same being in the State of Indiana.

The seventh article of the treaty of November 28, 1840, (above referred to,) referring to the provision for the band of Me-to-sin-ia, contained in the treaty of 1838, provides " that the United States convey to Me-shin-go-me-sia, son of Me-to-sin-ia, the tract of land reserved by the twenty-second [2d] article of the treaty of the 6th of November, 1838, to the band of Me-to-sin-ia," and the Senate amendment to said article so changes the same as to provide that the lands specified are " to be held in trust by said Me-shin-go-me-sia, for his band ; and the proceeds thereof, when the same shall be alienated, shall be equitably distributed to said band under the direction of the President."

The enclosed tracing from the township plates in the General Land Office shows the form of the reservation, which is situated in townships 25 and 26 north, range 7 east, and township 26 north, range 6 east, containing, according to the plats, 5,280 acres of land.

The provision of the treaty, that a patent shall be issued to Me-shin-go-me-sia, in trust for the members of his band, having never been carried into effect, he, Me-shin-go-me-sia, and the other parties whose names appear to the communication under consideration, now ask that the patent be issued jointly to all of the members of the band of Me-shin-go-me-sia, numbering, according to the statement contained in said communication, forty persons ; but such a proposition cannot be entertained, for the reason that it is unauthorized by the treaty. The delegation now present, representing Me-shin-go-me-sia, under power of attorney, which is enclosed herewith, verbally propose that the reservation be divided into lots, equal in number to the whole number of persons belonging to the band in question, and that patents, in fee simple, be issued to each of said persons for his or her share of said land. This last procedure, though unauthorized by treaty provisions, would, in my judgment, be the most equitable method of disposing of the subject, could the necessary authority therefore be obtained. Such authority may be obtained by treaty negotiations with the band of Me-shin-go-me-sia, or by congressional enactment ; but in either case, all of the expenses attending the same to the final closing up of the business should be paid by the Indians interested therein.

I am satisfied that the time has arrived when the matter under consideration should be closed ; and inasmuch as existing treaty provisions look only to the alienation of the land in question, and a distribution of the proceeds among the members of the band, and it appearing that the Indians desire to retain the land, I respectfully call your attention to the subject of obtaining, in some form, the necessary authority to divide the lands among the several members of said band, and to issue patents therefor, containing suitable restrictions against the sale of the lands, except with the consent of the President or the Secretary of the Interior.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

Names, ages, and sex of the band of Miami Indians known as the band of Me-shin-go-me-sia, and his brothers and sisters and their children.

Me-shin-go-me-sia, aged 80, male; Tac-a-kic-a-quah (his wife,) aged 70 female; Po-king-yah, son of Me-shin-go-me-sia, aged 55, male; Sac-a-chac-quah (his wife,) aged 36, female. Po-king-yah's children: William Wilson, aged 22, male; Wa-pe-ming-wah, aged 20, male; Ke-tuc-e-man-quah, aged 14, female; Mon-go-yan, aged 12, male; Pe-mis-yah, aged 10, male; Me-toc-quac-yah, aged 5, male; Attaw-a-taw, son of Me-shin-go-me-sia, aged 52, male; Tac-a-kica-quah, wife of Attaw-a-taw, aged 40, female. Children of Attaw-a-taw: Shap-pen-iman, *alias* Nelson, aged 22, male; Ching-we-ching-yah, wife of Shap-pen-iman, aged 23, female; Tac-con-za-quah, aged 8 months, female; Waw-puch-e-kic quah, aged 15, female; Shin-go-quah, aged 10, female; Lucinda, aged 8, female; Oc-we-lin-man-dah, or John, aged 6, male.

Family of Shap-on-doc-yah, deceased brother of Me-shin-go-me-sia: No-on-ge-quah, wife of Shap-on-doc-yah, aged 65, female. Children of Shap-on-doc-yah: Ten-on-yo-quah, aged 35, female. Shap-on-doc-quah, jr., aged 28, male; Pe-to-tah-much-quah, aged 24 female; Pe-to-tung-ah, aged 16, male. Grandchildren of Shap-on-doc-yah, deceased: To-cin-e-quah, aged 8, female; Wa-pe-quah, aged 2, female. Children of Ching-we-shing: Ma-cot-a-mung-wah, aged 2, male, son of Sen-on-go-quah; Ten-e-pin-ze-quah, present wife of Shap-on-doc-yah, jr., aged 28, female.

Family of Me-tac-quac-yah, deceased, brother of Me-shin-go-me-sia: Mon-go-zah, or Charlie Dickson, aged 37, male; Toc-a-chac-quah, daughter of Dickson, aged 9, female; Cot-ta-sip-pon, son of Dickson, aged 6, male; Sa-ka-ko-quah, daughter of Dickson, aged 4, female; Waw-po-pe-ya-quah, daughter of Me-tac-quac-quah, aged 25, female; Pe-mis-yah, son of Waw-pe-pe-ja-quah, aged 5, male; Puch ong ge-quah, sister of Me-shin-go-me-sia, aged 60, female; Ke-toc-e-mung-wah, son of Punch-ong-ge-quah, aged 35, male; Sac-ah-quot-ah, wife of Ke-toc-e-mung-wah, aged 36, female; As-san-sau-much-quah, daughter of Ke-toc-e-mung-wah, aged 16, female; Se-pe-quah, daughter of Ke-toc-e-mung-wah, aged 14, female; Wau-pe-sip-pon, son of Ke-toc-e-mung-wah, aged 10, male; Charlie, son of Ke-toc-e-mung-wah, aged 2, male.

The above and foregoing constitute all whom we understand as constituting the band of Me-shin-go-me-sia, with their sex and ages, and who are residents upon and in the reservation known as the present Miami reservation. The ages may not be as certain as could be desired, yet they are as nearly correct as we are able to ascertain at this time.

In behalf of the band of Me-shin-go-me-sia we desire to call the attention of the honorable secretary to the following sections or articles of treaties made by the United States with the Miami Indians:

1. Article 2 of the treaty of November 6, 1838, made at the forks of the Wabash, in the State of Indiana.
2. To article 14 of the same treaty.
3. To the 5th article of the treaty of November 28, 1840, made at the forks of the Wabash, Indiana.
4. To articles 7 and 8 of the same treaty.
5. To the Senate amendments of the same treaty, made February 25, 1841.

There has been some debate as to the proper definition of the word "band," as used in connection with the western Indians, and particularly with the Miamies; at least to the extent to which the meaning of the term should be carried when speaking of such as have been excepted out of the tribe which should, within a stipulated time, remove west of the Mississippi river. We have called the attention of the honorable Secretary to the articles above cited, to fortify us in our position; that the word band, in the several treaties referred to, has been, and by the Indians themselves, particularly understood to have refer-

ence to the family of the chief whose name is used above, and to his relatives by blood, as the "band of Me-to-sin-ia," "Me-shin-go-me-sia and his band."

It will be observed by reference to article 14 of the above treaty of November 6, 1838, that the family of John B. Richardville is excepted out of those who shall remove west within a stipulated period. We understand that the family of John B. Richardville, in the sense in which the terms are applied in Indian treaties, from that time composes the *band* of John B. Richardville, and precisely in the same sense as the Senate used the words "Me-shin-go-me-sia and his band," in the amendments to the treaty of November 28, 1840. (See Senate amendments, February 25, 1841.)

Again: in the 7th article of the treaty of November 28, 1840, it is stipulated that the family of Francis Godfrey shall not be required to remove with the tribe, but may remain, and shall receive their annuities at Fort Wayne, Indiana. Now, do not the several persons constituting the family of Godfrey, as much constitute a band as Me-shin-go-me-sia and his brothers in the 7th article of the same treaty, and who are afterwards referred to as a band in the Senate amendments above referred to? In the 7th article of the treaty November 28, 1840, it is stipulated that the United States shall convey by patent to Me-shin-go-me-sia the tract of land reserved in the 22d [2d] article, to the band of Me-to-sin-ia; and, by this section, the same provision made for Richardville and family is extended to Me-shin-go-me-sia and his brothers, which we understand to have reference to the family of Me-shin-go-me-sia. Hence we say that by the band of Me-shin-go-me-sia, we are to understand his family, in the same sense that Godfrey's and Richardville's families are named in the same treaties, and that the family of Me-shin-go-me-sia would therefore constitute a band, and so we have always understood it. For the foregoing reasons, we then say that the persons whose names are herewith transmitted, constitute the band of Me-shin-go-me-sia.

We beg to present another question for the consideration of the honorable Secretary. It is this: that by the treaty stipulations with the Indians, and with the bands of Me-to-sin-ia and Me-shin-go-me-sia, a patent should have been issued to Me-shin-go-me-sia, son of Me-to-sin-ia, for the lands reserved by the second article of the treaty of November 6, 1838, to the band of Me-to-sin-ia, and which was, by the seventh article of the treaty of November 28, 1840, stipulated to be conveyed by patent to Me-shin-go-me-sia in trust for his band. (See also Senate amendments, February 25, 1841, for a correction of the error in referring to the twenty-second section of the treaty of 1838, when it should be the second article of said treaty of 1838.) This is the land on which the band of Me-shin-go-me-sia reside, and for which no patent has as yet been issued in compliance with the treaty stipulations aforesaid. Under the article, as it stood originally in the treaty, Me-shin-go-me-sia would have been entitled to the patent in fee to himself and his blood relations; but the Senate amendments provide that he shall hold it in trust for himself and band. We ask, not only as a matter of right, but as a means of safety to ourselves and protection to our land, that the patent shall be issued in accordance with the said treaty stipulations. It is highly essential that some person or persons be invested with the title to these lands, and which strangers and trespassers will be compelled to respect.

As it is at present, white men come upon our lands without shadow of right, cut and remove our most valuable timber with impunity, while a resort to the courts for redress only involves us in endless litigation, trouble, and expense, because we are met with the plea that no one of us can claim title to the land, with the exclusive right to sue for redress of such grievances; not only grievances, but flagrant outrages upon what we consider our sacred rights.

And again: persons who claim to be the owners of certain parts of the lands

will execute leases to white men, upon the condition that they will clear certain parts of the land. Such lessees enter upon the land, strip it of valuable timber, and then abandon it; and, unless some person or persons be constituted the appropriate and necessary party or parties to execute leases, and to see that proper sureties are given for the performance of the contracts, we are at the mercy of adventurers, devoid of responsibility, honesty, or conscience. Me-shin-go-me-sia, the father of the band, by whom the land has been held in trust for himself and band, and who is one of the subscribers hereunto, is now old and infirm, and life with him is very uncertain, and it is his desire, as well as that of all the subscribers hereto, (all of whom are members of the band, and of age,) that the patent for said land shall be issued to all the members of the band jointly, Me-shin-go-me-sia included, so that all the members may be entitled to shares alike, (the names of the members of the band are set cut in the first part of this paper.) A number of the members of the band are the heads of families, and are desirous to know what interest they are to have in the lands, that they may have the same set apart to them to permanently improve, cultivate, and enjoy; and while they are clearing up their places, and making them ready for cultivation and profit, they respectfully ask that their lands may be exempt from taxation for a reasonable time—say, five years. We know of no indebtedness, judgments, or decrees that would be a lien upon said land, but for fear that some of that class of men known as Indian traders may hereafter bring up old claims against us—claims long since paid—we respectfully ask that it may be provided that such claims may not be brought against said land. We, in conclusion, ask that the treaty stipulations above referred to may be carried out in good faith, according to the spirit of the treaty; and that, for the reasons above stated, the patent may be issued as requested by us. We always have, and still look to the government for favor and protection, and shall be under renewed obligations for an early decision of this matter.

We, heads of families and adults of said band, hereunto subscribe our names, this 21st day of November, A. D. 1867, in council assembled.

ME-SHIN-GO-ME-SIA,	his + mark.
PO-KING-YAH,	his + mark.
ATTAW-A-TAW,	his + mark.
MON-GO-SAH,	his + mark.
KE-TOC-E-MUNG-WAH,	his + mark.
WILLIAM WILSON,	his + mark.

Signed, by making their marks, after the same was fully explained to them, in our presence—

OLIVER H. RAY.

JOHN M. RAY.

We, the undersigned, white citizens of Wabash county, Indiana, now residing, or who have resided, in the vicinity of the Me-shin-go-me-sia reserve, on the Missisnewa river, claiming to be familiar with the troubles, habits, and wants of the Indians composing the Me-shin-go-me-sia band, and having learned that the members of the band, including their venerable chief, are making an effort to secure a patent, jointly, for the land heretofore held by him in trust for the band, would respectfully certify that the grievances, respecting the cutting of timber by irresponsible parties, and the litigation and trouble consequent upon the same, mentioned by them in their statement, are true. We also take pleasure in certifying that many of those Indians have attended our schools and learned the rudiments of an English education; that they are peaceable and orderly; many of them have embraced the Christian religion, and are devout worshippers

thereof; that a large majority of the band have abandoned altogether the habits of their ancestors, and are disposed to adapt themselves to our civilization. We believe that it would be beneficial to the members of the band if each could have a title to his land, and have it set apart to him; and any effort made to secure that object we take pleasure in recommending.

JOHN M. RAY.
 GEORGE W. FRAZER.
 JACOB L. SAILORS.
 C. GARDNER.
 JOHN HITTLE.
 WILLIAM H. MILLER.
 JACOB SAILORS.
 B. F. LINES.
 ERASTUS SAILORS.
 CONRAD H. LINES.
 JEHU BANNISTER.
 JOHN L. STONE.
 BARNABY THORN.
 F. P. STONE.
 JAMES M. HANN.
 JAMES M. BLOOD.
 G. T. VANDEGRIFT.
 WASHINGTON WASHBURN.
 WILLIAM WATSON.
 W. G. ARMSTRONG.

WABASH, INDIANA, *December 2, 1867.*

We, the undersigned, citizens of Wabash county, Indiana, certify that we are well acquainted with the citizens whose names appear to the foregoing statement, and know them to be men of truth, and any statement made by them we regard as strictly true and worthy of credit—we living ten miles distant from said reservation.

JOHN C. SIVEY.
 JIM M. AMOSS.
 ELIJAH HACKLEMAN,
Ex-Clerk Circuit Court.
 ALVAH TAYLOR,
Deputy Clerk.
 JIM P. ROSS,
Deputy Clerk.
 C. S. ELLIS,
Treasurer Wabash County.
 J. R. WILSON,
Recorder Wabash County.
 JOHN R. POLK,
Auditor Wabash County.
 JOSEPH MACKEY,
Attorney at Law.

ME-SHIN-GO-ME-SIA RESERVE, *November 21, 1867.*

SIR: I am now and have been chief of that branch of the Miami Indians known as the Me-shin-go-ne-sia band, and as such was intrusted by the United

States with some 6,400 acres of land in Grant and Wabash counties, Indiana, for the use of said band. In my efforts to protect my trust, I have frequently been involved in litigations and troubles with parties who, under one and another pretext, have entered upon said land to make use of the timber thereon. I am now eighty years of age, and, from the natural order of things, am well satisfied that I shall not much longer be vexed with the litigations and troubles incident to the execution of my trust.

The band, all of whom are my blood relations, are now forty in number, and if the said land should be equally divided among them each would be entitled to about one hundred and sixty acres. Some of my band have been attending the schools of the whites, and are disposed to engage in agricultural pursuits. They desire to make permanent improvements upon the land for themselves and their children to enjoy, as do the more successful white neighbors; but they are reluctant to build houses and barns, and make other permanent improvements, unless they have the title to the land upon which they make such improvements, and are guaranteed that they can hold and enjoy the same.

Being desirous that each of these, my blood relations, should have their land secured to them by title made to them in my lifetime, I, at this time, respectfully ask the United States, through its proper department and by its proper officers, to convey said land, by patent, to all the members of my band jointly, so that they may have the land divided, and each his own proper share set off to him.

ME-SHIN-GO-ME-SIA, his + mark.

Hon. J. P. USHER,
Secretary of the Interior.

Signed by Me-shin-go-me-sia, with his mark, in our presence, as witnesses, and in the presence of William Wilson, interpreter, this 21st day of November, 1867—

OLIVER H. RAY,
JOHN M. RAY.

Know all men by these presents that I, Me-shin-go-me-sia, of Grant county, in the State of Indiana, being desirous that a patent may be issued to all the members of what is known as the Me-shin-go-me-sia band of Indians, by the United States, for the following tract of land heretofore held by me in trust for said band, to wit: beginning on the eastern boundary line of the Big Reserve, where the Mississinnewa river crosses the same; thence down said river with the meanderings thereof to the mouth of the creek called Forked branch; thence north two (2) miles; thence in a direct line to a point on the eastern boundary line two (2) miles north of the place of beginning; thence south to the place of beginning; supposed to contain ten (10) square miles, all in Wabash and Grant counties, Indiana—hereby constitute and appoint Oliver H. Ray, William Wilson, and Charles Dixon, of Grant and Wabash counties, Indiana, my true and lawful attorneys, for me and in my name, place and stead, to do any and all lawful acts with the government, at Washington and elsewhere, to further and carry out the object of my desire above stated. And I hereby authorize and empower my said attorneys to sign my name for me, and to do all other lawful acts in the premises in as full and ample a manner as I could do myself were I personally present; I hereby ratifying all the acts of my said attorneys lawfully done in the premises.

Witness my hand and seal this 19th day of November, A. D. 1867.

ME-SHIN-GO-ME-SIA, his + mark. [SEAL.]

Attest:

J. C. SIVEY.

STATE OF INDIANA, *Wabash county, ss :*

On this 19th day of November, 1867, before me, the subscriber, a notary public within and for said county, personally appeared Me-shin-go-me-sia, to me known, who made his mark to and acknowledged the execution of the annexed power of attorney to be his voluntary act, for the purpose therein set out. The contents of said power of attorney were made known to him before he made his mark to the same.

Witness my hand and notarial seal, this 19th day of November, A. D. 1867.

[SEAL.]

JOSEPH MACKEY,

Notary Public, Wabash County, Indiana.

AN ACT authorizing the Secretary of the Interior to cause the lands known as the Miami Indian reservation, in the State of Indiana, to be patented.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to cause the land reserved to the band of "Me-to-sin-ia," by the second article of the Miami treaty of November 6, 1838, and which was conveyed to "Me-shin-go-me-sia," son of "Ma-to-sin-ia," by the seventh article of the treaty with the Miamies, of the 28th November, 1840, to be subdivided and patented in severalty to the members of the band of the said "Me-shin-go-me-sia;" the said patents to convey the lands in fee simple: Provided, That the said lands shall not be sold or alienated without the consent of the Secretary of the Interior for the time being.