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Finding of facts by the Court of Claims in Congressional Case 9255, the Indiana Miami Indians v. United States.

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IN THE SENATE OF THE UNITED STATES.

FEBRUARY 23, 1895.—Referred to the Committee on Appropriations and ordered to be printed.

Mr. MANDEESON presented the following

FINDING OF FACTS BY THE COURT OF CLAIMS IN CONGRESSIONAL CASE 9255, THE INDIANA MIAMI INDIANS v. UNITED STATES.

[Court of Claims. No. 9255 Congressional. The Indiana Miami Indians v. The United States.]

FINDINGS OF FACT.

This case having been heard by the court, the court, upon the evidence and after considering the briefs and arguments of counsel on both sides, finds the facts as follows:

I.

On the 6th day of November, 1838, by treaty of that date, the Miami tribe of Indians, then living in Indiana, ceded to the United States, for a money consideration, a portion of their lands in Indiana, looking to the eventual removal of the tribe to the country west of the Mississippi River.

II.

On the 28th day of November, 1840, the Miami tribe of Indians entered into another treaty by which they ceded to the United States their remaining lands in Indiana, and the United States stipulated to assign them a large tract of country in the then Territory of Kansas, to which they agreed to remove within five years.

III.

In compliance with the treaty of 1840, most of the Miami tribe of Indians removed to Kansas in the year 1846, but a large number of the tribe had special permission, under the treaties of 1838 and 1840 and joint resolutions of Congress passed in March, 1845 (6 Stat., 942), and in May, 1850 (9 Stat., 806), to remain in Indiana. They did not, therefore, emigrate with the tribe, but remained in Indiana and adjacent States; and the annuities due the tribe were divided, one part being distributed among the Western Miamis, or those who resided in Kansas, and the other part distributed among the Miamis of Indiana.

IV.

On the 5th day of June, 1854, both branches of the Miami tribe of Indians entered into another treaty with the United States. (10 Stat., 1093.) In the same month and year the Commissioner of Indian Affairs, in consultation with the headmen of the Indiana portion of the tribe, revised and corrected the list of those remaining in Indiana and who were entitled to a distribution of the fund to be paid to the Indiana Miamis, which constituted a list of three hundred and two (302) persons. At the time of the ratification of said treaty (August 4, 1854) an amendment of the treaty was made for the benefit alone of the Miamis of Indiana, which amendment, after reciting the disposition to be made of that portion of the money to be paid to them, provided:

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, 1854, 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, commutation 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 Indians.

V.

Under the provisions of the said treaty of 1854 payments were made annually to the Western Miamies and to the Miamies of Indiana, until 1858, when, under an act of Congress passed on the 12th day of June of that year the Secretary of the Interior took \$15,629.27 from the funds set apart by treaty for the Indiana Miamies, without their consent and against their earnest protest, and paid the same to sixty-eight persons, none of whom were a part of the three hundred and two (302) Miamies named in the amendment to the treaty of 1854, or the descendants of any of said 302 persons.

VI.

These sixty-eight persons were then placed upon the pay roll of the Indiana Miamies (to which roll others were afterwards added) and they received additional annuities from the Indiana Miami funds, amounting to \$32,899.11, until their names were stricken from said roll under an opinion of the Attorney-General dated September 20, 1867.

VII.

These sixty-eight persons so placed upon the Indiana Miami roll in January, 1859, and the others afterwards added, were not embraced in the corrected list of three hundred and two (302) persons agreed upon by the Miamies of Indiana and the Commissioner of Indian Affairs in June, 1854, nor were they the descendants of any of the 302 persons who, alone, by the terms of said treaty, were to share in the annuities and other moneys of the Indiana Miamies.

VIII.

The moneys so paid from 1859 to 1867 to said sixty-eight persons, and the others afterwards added, were taken from the funds then in the possession of the United States belonging to the Indiana Miamies, and were a part of their proportion of the installments due them under the

treaties of November 28, 1840, and of June 5, 1854, and also interest at the rate of five (5) per cent per annum on the sum of \$221,257.86 held in trust for the Miamies of Indiana under the amendment of the treaty of 1854.

IX.

The aggregate amount paid to the persons so added to the Indiana Miami roll to the period when their names were stricken from the roll, under an opinion of the Attorney General, was \$48,528.38 (forty-eight thousand five hundred and twenty-eight $\frac{38}{100}$ dollars).

A true copy of the findings of the court, filed February 11, 1895.

Test this 11th day of February, A. D. 1895.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

