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## **Ratified treaty no. 239, Documents relating to the negotiation of the treaty of November 28, 1840, with the Miami Indians. November 28, 1840**

Washington, D.C.: National Archives, November 28, 1840

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RATIFIED TREATY NO. 239

DOCUMENTS RELATING TO THE NEGOTIATION OF THE  
TREATY OF NOVEMBER 28, 1840, WITH THE MIAMI INDIANS



3 Feb 27.

Rep to the Senate  
of War -

W.M.B.  
Feb 27, 1841  
Indian appie.

S. 455. O.C. Indiana  
Senate Resolutions  
25 Feb 7 1841

Advising & Consenting to  
ratification of the treaty  
with Miami Indians, with  
amendments - Articles  
of said treaty enclosed &  
therefore entered (M 1025)

Some treaty -

Recd. 1. March 41  
File  
See letter of 16<sup>th</sup> April 1841,  
to Genl. Mitchell & Allen Hamil-  
ton Esq. transmitting the treaty.

W. Parry.



In Senate of the United States,  
25<sup>th</sup> February, 1841.

Resolved, (two thirds of the Senators present concurring) That the Senate advise and consent to the ratification of the Treaty made and concluded at the Forks of the Wabash, in the state of Indiana, the twenty eighth day of November, in the year of our Lord, eighteen hundred and forty, between Samuel Neilroy and Allen Hamilton, acting ~~in~~ as Commissioners on the part of the United States, and the Chiefs, Warriors and Head men of the Miami tribe of Indians, with the following amendments; Provided, that the assent of the said Indians shall be properly obtained to the same; to wit:—

In the second article, strike out the words "two hundred and fifty", and insert, three hundred; and in the latter clause strike out "three hundred", and insert, two hundred and fifty.—

Add to the third Article the following:—

Two hundred and fifty thousand dollars of the sum set apart in the second article of this treaty shall be applied to the payment of debts contracted before the twenty eighth day of November, 1840; and the residuum of said sum, after such debts are satisfied, being fifty thousand dollars, to the payment of debts contracted between the last named date and the time of the ratification of this treaty by the Senate; giving the preference, in the application of said sum of fifty thousand dollars, to debts contracted for provisions and subsistence.—

In the seventh article, strike out the words "twenty second" and insert— second—



In the same article, at the first period, insert—to be held  
in trust by the said Meshing-go-mezia, 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.—

In article Nine, strike out "two hundred and fifty," and insert  
three hundred; and strike out the whole of that  
article after the word "ascertained"—

Insert after article 11, an additional article:—

Article. 12. The United States hereby stipulate  
to set apart and assign to the Spiarmies, for their  
occupancy west of the Mississippi, a tract of  
country, bounded on the east by the State of  
Missouri, on the north by the country of the  
Weas and Kaskaskias, on the west by the  
Pottawatomies of Indiana, and on the south  
by the land assigned to the New York Indians,  
estimated to contain five hundred thousand  
acres.—

Attest,

Henry Pickens

Secretary.—



Obj. of Indiana N. 1095  
Gen. Samuel Melroy  
V. A. Hamilton Nov. 29. 1840

Resolved Proposition of the  
Members to cede their re-  
=maining lands in Indiana  
in the form of a treaty. and  
also explanatory letter about  
the same -

Recd 19 Dec. 1840

File. See letter of 29<sup>th</sup> Dec-  
1840 to Secy of War, submitting  
the treaty - And Resolutions of the  
Senate of Feb 7 1841 -



Forks of the Mabash Indiana  
 November 28. 1820

Sir

Herewith enclosed you will find  
 a proposition of the Miamies, to cede  
 their remaining lands in Indiana  
 in the form of a treaty. And also  
 our explanatory letter accompanying  
 the same.

Very Respectfully  
 Yours Ob. Servts

Saml. Miboy  
 Allen Hammett

J. Hartley Crawford Esqr.  
 Com. Indian Affairs  
 Washington City



No. 1025-

[encl w/ multroy to CIA, NOV. 28, 1840

Treaty File, NOV. 28, 1840]

E



51-4

Storks of the Wabash  
Huntington County Indiana

November 28. 1840

Sir

The undersigned, acting under instructions contained in your unofficial letter dated September 18<sup>th</sup> 1840. Have the honour to state that in compliance with the instructions referred to, we have at the payment of annuities, which was appointed to commence on the 16<sup>th</sup> Inst. communicated to the Miami Indians, in full council, the views and instructions of the Department. And after full consideration of the subject, they decided to reduce to treaty form - a proposition, on the terms upon which they would consent to cede their remaining lands in Indiana to the United States, subject, as they understand it, to the approval of the department. And to the approval and ratification of the President and Senate of the United States, before being of any binding force or efficacy as a treaty.

In relation to the terms and conditions contained in the project of a treaty submitted, we cannot doubt but that they are as favourable for the United States as under any circumstance could be expected, and much more favourable than most of the treaties heretofore made with the Miamies.

Assuming the quantity of land proposed to be ceded, to be five hundred thousand acres, which from the report of the Commissioner of Indian Affairs, of the last year, is presumed to be near the quantity, the price per acre is \$1.<sup>40</sup>/<sub>100</sub>. The sum of \$250,000, proposed to be set apart for the payment of the debts of the tribe, is believed not to be too much. And if the purchase of the



land ~~land~~ should be delayed, a much greater sum would be required to meet that object.

The ballance of the purchase money, \$300,000, divided into annual payments of \$15,000, extending through twenty years, it is believed will be less burthen some to the Treasury, than in any other form of payment, and the sale of the lands will amply reimburse the sums necessary to fulfill all the stipulations of the proposed treaty.

As customary in the removal of Indians from the States to the Country assigned to them West of the Mississippi, the United States are required to defray the expences of the removal of these, and to subsist them for one year after their arrival at their new home.

As to the time stipulated within which they are required to emigrate, it would have been more satisfactory, if a shorter time could have been named. However, it is not to be doubted, but that the body of the tribe will remove in much less time. Probably within the next two years. The survey and sale of the land will ensure their speedy removal.

Provision has been made by the 14th, article of the treaty of the 6th, of November 1838, for the continuance of the family of John B. Richardville principal Chief, in Indiana, and the payment of their proportional share of the annuities of the tribe at Fort Wayne. A like ~~provision~~ is inserted in behalf of the Family of Francis Godroy Miami war Chief deceased, for the reason therein assigned, that is,



that is, that their lands which are extensive, and very valuable, cannot be sold until the youngest child arrives at the age of twenty one years under the provisions of the will. Hence the propriety of the family being permitted to remain with their estate, and receive their proportion of the annuities in this State.

The Micamies in this instance have not insisted on making individual reservations, which circumstance is calculated to recommend the proposed treaty to favourable consideration. These reservations, heretofore made have been the source of discontent amongst the Indians, and were unjust to them, as well as to the Government.

This has been avoided in the present instance, except as relates to the Chief Richardville, who has been a common benefactor to his people. This reservation made for his benefit, will enable him to do justice to individuals of the tribe, who heretofore have not received a due share of the money arising from former sales of their land.

The provision requiring the reservation made to the Che-to-sen-ia band, ~~to be~~ <sup>to be</sup> ~~granted~~ <sup>granted</sup> to his son (Shing-go-me-zia) is necessary to fulfill the intention when the reservation was made. It was the intention then to provide for the patenting of this land, and it is no more than justice to the party that a patent should issue in this



Case, as Me Shing-go-me-gia and his Brothers never involved the tribe in debts, as has been done by most other individuals belonging to the tribe.

It is possible that a portion of this band may remain on this reservation when the body of their people will have emigrated; hence the necessity of the provision, that they could receive their proportion of the annuities with the Richardson and Godfroy families, should they remain.

It is proper to state that it would have been very difficult, if at all practicable, to have obtained the consent of this band to a cession of the land, without this provision in their favour—

Upon a review of the provisions of this proposition of cession, the undersigned flatter themselves, that they will meet the approbation of the Department, convinced as we are, that more favourable terms as relates to the interests of the United States cannot be obtained. Delay would enhance the price of these lands, surrounded as they are by rapidly increasing settlements. And each day sinks this unfortunate ever degraded people more deeply in debt. One year hence, it would require the entire price of their lands to pay their debts. In view of these facts it is of the utmost importance that this treaty be approved at the earliest day possible—



5

We are aware that the negotiation has been informal. But on the part of the Indians, their Chiefs and Head men have signed the treaty in good faith, and earnestly desire that it may be ratified by the proper authorities.

It may be alledged that the undersigned, have exceeded their authority under the instructions which ~~were~~ which they acted. But the importance of speedy action in this case, the injury and danger of delay, as in one year more they might have required a much larger price or possibly even refused to sell, these, and the importance to them of the treaty for the reasons stated, and of their removal beyond the states at the earliest possible day, are amongst the considerations which we would urge in justification of our course in this important matter.

And although we may have, ~~as~~ before stated, exceeded our authority, yet, the treaty when ratified will be of the same validity as though negotiated by Commissioners duly appointed and authorized to act in the case -

Some expence, inconsiderable in amount, has unavoidably been incurred; such as a prolongation of the time of making the payment, and an increased amount of rations for the subsistence of the Indians; and also an additional amount on account of the Guard, whose presence and services were deemed indispensable.



These together with Clerk Aune, and such compensation as may be thought proper to the undersigned, will doubtless be de-  
frayed by the Government.

In conclusion, permit us to congratulate the Department, and the Citizens of Indiana, on the favourable prospect of the extinguish-  
ment of Indian title to lands in this State, and their removal beyond our borders.

This has been most earnestly desired by our Citizens for a length of time, and many efforts have been made to accomplish it, which had hitherto failed. Should the proposed treaty be approved, an object will have been effected, equally beneficial to the United States and to Indiana.

And of the utmost importance as relates to the interest of the Micamies. As, nothing can preserve them from annihilation but their speedy removal to the Country as-  
signed to them in the West.

We therefore trust, that this treaty will be ratified and carried into effect without unnecessary delay.

With great Consideration

We have the Honour to be  
Your most Obedt. Servts

Samuel Milroy

Allen Hammett

Harley Crawford Esqr  
Com. Indian Affairs  
Washington City



[reates file, Nov. 28, 1840]

Col. St. Indiana No 1127.  
Samuel Nelson & A Hamilton  
Tols of Wash. Co. 18 May 41

Returning Miami Treaty of 1826  
with assent of the Indians to  
to Senate Amendments,  
annexed.

State seems in  
not being governed by the  
Regulations in furnishing pro-  
visions & of their speedy ac-  
tion - suggest that the Indians  
can be removed west without  
difficulty - Off. of Com. to investigate  
claims & lands and what  
it is proposed to the large for trans-  
mission to the Pres. & the  
Tols to be purchased

Recd. 29 May 41  
See letter to Sec. of War June 1. 1840  
transmit. treaty with assent of the Indians  
to Senate amendments

M. Potts



Forks of the Wabash Indiana

May 18th, 1811

Sir

In compliance with your instructions, contained in your letter of the 16th, ult. the undersigned, at the earliest moment, made arrangements for assembling the Miami Indians in order to submit to them, for their assent, the amendments of the Senate to the Treaty, concluded with these Indians on the 28th. day of November last. (The Indians being duly notified, assembled at the Forks of the Wabash Huntington County Indiana, on the 12th. Inst. And in public Council opened to the Chiefs and Head Men, the amendments of the Senate were fully explained to them, and after deliberation in private Council, they on Saturday the 15th. Inst. gave their free and voluntary consent to the amendments, and signed their names to the instrument appended to the Treaty, as evidence of such assent.

The Treaty as well as the amendments was submitted to their consideration, and they were informed that if they did not like the Treaty, that withholding their assent to the amendments of the Senate, would abrogate all that had been done, and the Treaty annulled. And therefore, with a full knowledge of the effect of their assent when given, they willingly gave it.

It is proper to state, that under our instructions requiring "that no time be unnecessarily lost" in obtaining the assent of the Indians to the amendments, the undersigned deemed it advisable, not to take the time required by the Regulations, to advertise for proposals for furnishing Nations during the



Council, but purchased a quantity of provisions, sufficient for the occasion, and the same was issued to the Indians, by Capt. Andrie, the Interpreter, under the direction of the undersigned. Bills and vouchers for which will be transmitted with our accounts to the Department.

The undersigned trust, that mode adopted for furnishing provisions for the occasion will be approved by the Department as the mode prescribed by the regulations, would have occasioned delay and the quantity required, as we were aware it would be, being so very small.

Another important consideration was, that the undersigned were convinced, that improper influences were operating, to prejudice the Indians against the treaty, and that therefore, speedy action was necessary. Governed by these considerations, we trust that the course pursued will be sanctioned, especially as entire expenses of the treaty will be of such limited amount.

It may not be improper for us to add that in concluding the trust confided to us by the Department, that in our opinion, those Indians can be removed to the country assigned to them West of the Mississippi, without difficulty, as they are well aware of the necessity, as well as of the advantage that would be the result of their speedy removal. And permit the undersigned respectfully to suggest the necessity of an early appointment of the "Commissioner or Commissioners" required to be appointed under the treaty, to investigate and settle claims against the Indians. This will be an arduous duty, and will require, not only integrity, but firmness of purpose and capacity.



in the person or persons selected for the  
trust

Very Respectfully  
Your Obedient Servants

Samuel Milroy  
Allen Hamilton

J. Hartley Crawford Esq  
Commissioner Indian Affairs  
Washington City



5R Tofa 9 25-5

TF239 5/18/41

Miley & Hamilton

THK 8/19/60

Muir & DeWitt

~~H343-47 Council Bluffs  
28 1-18-57~~