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Report on Jurisdiction Over Indian Reservations

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IN THE SENATE OF THE UNITED STATES.

MAY 20, 1874.—Ordered to be printed.

Mr. INGALLS submitted the following

R E P O R T :

[To accompany bill S. 652.]

The Committee on Indian Affairs, to whom was referred the bill (S. 652) conferring exclusive jurisdiction over Indian reservations upon the United States courts, and for the punishment of crimes committed by and against Indians, submit the following report :

That it is doubtful whether Congress has the power to confer exclusive jurisdiction upon the courts of the United States over Indian reservations within the several States without their consent. This difficulty does not exist in the Territories, where the authority is ample and undisputed. The committee, therefore, recommend to strike out in line 11, section 1, the words "State or," and in lines 12, 13, 14, 15, 16, 17 all after the word "States," in line 12, to the word "provided," in line 17, of the same section.

The committee are further of opinion that the attempt to confer jurisdiction upon the courts of the United States over offenses committed by one Indian upon the person or property of another Indian might lead to interminable litigation and subject the Government to great difficulty and expense in the determination of disputes, which could more readily be adjusted by the agents and superintendents having the Indians in charge. The Indians, while their tribal relations subsist, generally maintain laws, customs, and usages of their own for the punishment of offenses. They have no knowledge of the laws of the United States, and the attempt to enforce their own ordinances might bring them in direct conflict with existing statutes and subject them to prosecutions for their violation.

The bill also confides to Indian superintendents and agents a very dangerous and formidable discretion, which appears to the committee to be wholly incompatible with the theory of the relation existing between the Indians and the Government.

The committee, therefore, recommend to strike out all of section 1 after the word "Indian," in line 20, upon the second page of the bill.

The second section is designed to prevent trespasses upon Indian reservations by the cutting and removal of wood, trees, timber, stone, grass, or other material. The prohibition is absolute and the penalty is severe, but the committee believe it should not extend to cases where consent has been lawfully obtained; and they therefore recommend that the second section be amended by inserting in line 5, after the word

"order," the words "without the written consent of the officer or agent having charge thereof."

The amendment proposed by the committee to the first section renders necessary to amend the third section, by striking out in line 3 the words "within the jurisdiction of the court," and inserting the words "located in the district or Territory."

With these amendments the committee recommend the passage of the bill.