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Message from the President of the United States, transmitting a communication from the Secretary of the Interior relative to amending the law against trespasses upon Indian lands

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M E S S A G E

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

A communication from the Secretary of the Interior relative to amending the law against trespasses upon Indian lands.

DECEMBER 21, 1885.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication of 15th instant, from the Secretary of the Interior submitting, with accompanying papers upon the subject, a draft of a bill to amend section 2148 of the Revised Statutes of the United States, relating to trespasses upon Indian lands.

The subject is one of great importance and is commended to the early and favorable action of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION,
December 21, 1885.

DEPARTMENT OF THE INTERIOR,
Washington, December 15, 1885.

SIR: I have the honor to submit herewith a report from the Commissioner of Indian Affairs of the 3d instant, presenting the draft of a bill to amend section 2148 of the Revised Statutes of the United States in relation to trespassers on Indian lands; also copy of Ex. Doc. No. 17, H. R., Forty-eighth Congress, first session, containing previous correspondence on this subject.

A bill nearly in form as now presented passed the Senate April 24, 1884, but failed to become a law.

The embarrassments under which the Executive Departments of the Government have labored in the past, and notably during the fiscal year recently closed, and the large expenditures incurred in expelling intruders from the Oklahoma country and other Indian lands, have been mainly due to the inadequacy of appropriate legislation on this subject.

I concur in the recommendation of the Commissioner of Indian Affairs, and renew the former recommendation of this Department that the matter be presented for the early attention, consideration, and action of Congress.

I have the honor to be, very respectfully, your obedient servant,

The PRESIDENT.

L. Q. C. LAMAR,
Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, December 3, 1885.

SIR: I have the honor to submit herewith, in duplicate, the draught to amend section 2148 of the Revised Statutes of the United States, in relation to trespassers on Indian lands, and respectfully recommend that the same be transmitted to the Congress for its consideration and action.

Accompanying this communication will be found copies of House Ex. Doc. No. 17, Forty-eighth Congress, first session, containing reprints of House Ex. Doc. No. 145, first session, and Senate Ex. Doc. No. 58, second session Forty-seventh Congress, containing various recommendations previously made by this Department and the War Department on the subject.

At the first session of the Forty-eighth Congress Senate bill No. 1545, nearly identical with that now presented, was passed by the Senate, April 24, 1884, but was not acted on by the House, either at that or the concluding session.

Apart from what has already been from time to time urged by this office, as shown in office reports to the Department, March 13, 1882, and November 23, 1883, printed in said executive document, the absolute necessity for immediate and stringent legislation on the subject of trespassers on Indian lands is additionally evidenced by the continued aggressions made on the Indian Territory by the so-called Oklahoma colonists during the past year, mention of which is more fully made in my annual report to the Department.

It is earnestly hoped that Congress will strengthen the hands of the Department in dealing with this question by an early passage of the necessary legislation.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

[House Ex. Doc. No. 17, Forty-eighth Congress, first session.]

Message from the President of the United States, transmitting communication from the Secretary of the Interior relative to trespasses on Indian lands.

DECEMBER 11, 1883.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith a communication of the 3d instant, from the Secretary of the Interior, in relation to the urgent necessity of action on the part of the Congress for the more adequate prevention of trespasses upon Indian lands, with copy of report from the Commissioner of Indian Affairs upon the subject, draft of bill for the object indicated, and copy of correspondence from the Secretary of War recommending action in the premises.

The matter is commended to the consideration of the Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
December 10, 1883.

DEPARTMENT OF THE INTERIOR,
Washington, December 3, 1883.

SIR: I have the honor to submit herewith a draft of a bill to amend section 2148 of the Revised Statutes of the United States, in relation to trespasses on Indian lands, together with a copy of a report on the subject by the Commissioner of Indian Affairs, dated November 23, 1883.

I also inclose copies of House Ex. Doc. No. 145, first session, and Senate Ex. Doc. No. 58, second session Forty-seventh Congress, embracing recommendations from this Department and the War Department on this subject.

I respectfully renew the recommendations of this Department and request that the matter be laid before the Congress for consideration.

I have the honor to be, very respectfully, your obedient servant,

H. M. TELLER,
Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 23, 1883.

SIR: I have the honor to submit herewith for transmission to Congress the draft (in duplicate) of a bill to amend section 2148 of the Revised Statutes, in relation to trespassers on Indian lands.

At the second session of the Forty-seventh Congress, Senate bill No. 2450, for this purpose, was reported by the Senate Committee on Indian Affairs, but owing to the advanced stage of the session no further action was had in the matter. The bill now submitted is a copy of that reported by the Senate committee.

In my report of the 13th March, 1882, I referred at length to the insufficiency of existing laws relating to intruders upon Indian reservations, and the urgent necessity for additional legislation on the subject. (See copy House Ex. Doc. No. 145, Forty-seventh Congress, first session, herewith.)

Since the date of that report and within a period of one year, Payne and his party of "Oklahoma colonists" have made three additional incursions into the Indian Territory, and have as often been removed by the United States troops. How long this state of things is to continue depends entirely on Congress; but it may be safely assumed that so long as the persons of these intruders are respected, just so long will this trouble exist.

I again urgently recommend that Congress be specially requested to take steps which will put an effectual stop to these intrusions.

In connection with this subject I also inclose a copy (Senate Ex. Doc. No. 58, Forty-seventh Congress, second session) of a special communication addressed by the honorable Secretary of War to the President, on the 2d of February last, urging the passage of the amendment in question.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

[House Ex. Doc. No. 145, Forty-seventh Congress, first session.]

PREVENTION OF TRESPASS ON INDIAN LANDS.

Message from the President of the United States, transmitting a communication from the Secretary of the Interior relative to the more adequate prevention of trespass upon Indian lands.

MARCH 29, 1882.—Referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives :

I transmit herewith a communication from the Secretary of the Interior, dated 24th instant, in relation to the urgent necessity of action on the part of Congress for the more adequate prevention of trespasses upon Indian lands, with copy report from the Commissioner of Indian Affairs upon the subject, and draft of a bill for the object indicated.

The subject is commended to the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, March 29, 1882.

DEPARTMENT OF THE INTERIOR.

Washington, March 25, 1882.

SIR: I have the honor to submit herewith copy of a communication of the 13th instant, from the Commissioner of Indian Affairs, urging action on the part of Congress for the more adequate prevention of trespasses upon Indian lands, and presenting a draft of proposed legislation for the object indicated.

Trespasses upon Indian lands are of constant occurrence. Persons are daily entering upon Indian reservations in violation of law, under various pretexts, and, having once gained a foothold, and made some improvement, or opened mines, when the attention of the Department is called to the matter, and they are removed, or about to be removed, make the fact of their entrance and labor the basis of a claim to Congress at its next session for the right to retain possession of what they have in reality wrongfully gained.

These trespasses frequently cause difficulties with the Indians, and sometimes result in bloodshed and open war. The existing law imposes no penalty beyond removal for the first unlawful entry, and a fine not exceeding \$1,000 for the second offense (Rev. Stats., secs. 2147, 2148). In most cases the imposition of a fine amounts to nothing, in consequence of the inability of the offender to pay it. The bill in question inflicts a penalty of not more than \$500 and imprisonment at hard labor for not more than one year for the first offense, and for every subsequent offense not more than \$1,000 nor less than \$500, and imprisonment at hard labor not more than two years nor less than one year, but exempts all emigrants or travelers peaceably passing through Indian lands, tribal reservations, or lands specially set apart for Indian purposes, without committing any willful trespass or injury to person or property.

The subject having my approval, I respectfully ask that it may be presented for the early attention and action of Congress.

I have the honor to be, sir, very respectfully, your obedient servant,

S. J. KIRKWOOD,

Secretary.

The PRESIDENT.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Washington, March 13, 1882.

The honorable the SECRETARY OF THE INTERIOR:

SIR: In the annual report of this office for the past year I referred to the insufficiency of existing laws relating to intruders upon Indian reservations in the following terms:

"Existing laws (intercourse act June 30, 1834; act of August 18, 1856, sections 2147, 2148, Revised Statutes) are, in the changed order of things, entirely insufficient for the purpose. Under these laws an intruder must first be removed from the reserve, and then if he returns he is liable to a penalty of \$1,000.

"As a general rule intruders are of a class having no property subject to execution, and as the penalty can only be collected by an action of debt, the result is invariably a barren judgment, and the delinquent goes scot-free, only to renew his attempts at settlement at a later date, and perhaps in some other direction.

"A notable illustration of the inadequacy of the law is found in the case of the notorious Captain Payne, of Oklahoma fame, who, after repeated attempts at settlement in the Indian Territory, and removal therefrom by the military, was finally arrested July 15, 1880, and taken to Fort Smith, Ark., where he was released on bail to appear at the ensuing November term of court. At the subsequent May term of said court a civil suit in the nature of an action of debt brought against Payne in the name of the United States, to recover the statutory penalty of \$1,000, was tried and judgment rendered against him. It is altogether improbable that the judgment can now be collected from Payne, and the result is that he is at large, organizing another scheme for invasion of the Territory.

"I suggest an amendment of the law so that an intruder on Indian lands shall be liable to prosecution for the first and every subsequent offense, and upon conviction, be punishable, not simply by fine, but by fine and imprisonment, and provision should also be made in the act for confiscation and sale by the Government of the entire outfit of an intruder or party of intruders."

I also beg leave to call your attention to the remarks of Inspector Pollock in his report to the Department upon the condition of the five civilized tribes in the Indian Territory, under date of October 10, 1881:

"The greater portion of the troubles that arise here are occasioned by white intruders—American citizens—whom the United States are obligated to, and should promptly, remove from the Territory.

"These intruders do not come here because there are no other unoccupied lands;

millions of acres better than this are to be found in our Western States and Territories, against the settlement of which there is no inhibition; they come here from an inherent disposition to transgress, to evade the payment of taxes, and to escape the restraints of law.

"To them the Indian laws do not apply. By regularly enacted laws of the 'Five Nations' their members are inhibited from carrying deadly weapons, but these white intruders—pale-faced cut-throats, the terrors of the country—go armed to the teeth continually.

"The United States should keep their own trespassing citizens out of this Territory, and should sacredly keep and perform every other obligation entered into with these people. No excuse can be made current for a failure to do so.

"The cutting or stealing of timber, hay, or stone, the grazing or raising of stock, and all other wanton and willful trespassing by United States citizens upon lands held in common or in severalty by these people should be made a criminal offense, punishable not only by fine (which is usually not collectable) but also by imprisonment."

In furtherance of these views, I have the honor to submit for your consideration the draft of a bill, which if enacted will, I think, prove a wholesome check to intruders, and, subject to your approval, I respectfully recommend that it be transmitted to Congress to be offered as a substitute for H. R. 2867, which simply amends the existing statute in regard to a second offense, and does not, in my judgment, go far enough.

Duplicate copies of this letter and of the bill prepared in this office are herewith submitted.

Very respectfully, your obedient servant,

H. PRICE.
Commissioner.

A BILL to amend section twenty-one hundred and forty-eight of the Revised Statutes of the United States, in relation to trespassers on Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-one hundred and forty-eight of the Revised Statutes of the United States be amended to read as follows, namely:

"Every person who without authority of law enters and shall be found upon any Indian lands, tribal reservation, or lands specially set apart for Indian purposes shall, for the first offense, upon conviction thereof, pay a fine of not more than five hundred dollars, and be imprisoned at hard labor for not more than one year; and for every subsequent offense shall, upon conviction thereof, pay a fine of not more than one thousand dollars and not less than five hundred dollars, and be imprisoned at hard labor for not more than two years nor less than one year; and the wagons, teams, and outfit of such person or persons so offending shall be seized and delivered to the proper United States officer, and be proceeded against by libel in the proper court, and forfeited, one-half to the informer and the other half to the United States; and in all cases arising under this act Indians shall be competent witnesses: *Provided, however,* That the provisions of this section shall not apply to emigrants or travelers peaceably passing through such Indian lands, tribal reservations, or lands especially set apart for Indian purposes, without committing any willful trespass or injury to person or property."

[Senate Ex. Dec. No. 58, Forty-seventh Congress, second session.]

Message from the President of the United States, transmitting a communication from the Secretary of War in relation to the subject of invasion of Indian Territory, urging an amendment to section 2148 Revised Statutes, of imprisonment for unlawful entry upon Indian lands.

FEBRUARY 5, 1883.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

To the Senate and House of Representatives:

I transmit herewith for the consideration of Congress a communication from the Secretary of War, dated the 2d instant, in relation to the subject of invasion of the Indian Territory, and urging the importance of amending section 2148 of the Revised Statutes so as to impose a penalty of imprisonment for unlawful entry upon the Indian lands.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, February 5, 1883.

S. Ex. 14—2

WAR DEPARTMENT,
Washington City, February 2, 1883.

SIR: I have the honor to invite attention to the subject of invasion of the Indian Territory, and to urge the importance of action on the part of Congress, providing for the proper punishment of persons unlawfully entering upon Indian lands.

Allusion was made to this subject in my annual reports both of 1881 and 1882, with especial reference to one Payne and his followers, who are the principal offenders, and who were twice during the past year driven from the Indian Territory by the military authorities.

From information recently received through military channels it is shown that Payne and party were contemplating another raid into the Oklahoma district, Indian Territory, and on yesterday this Department was called upon by the Department of the Interior to issue orders to the military authorities to prevent his incursion into said district, or to remove those who may succeed in getting upon the lands.

The only penalty for such offense is the fine provided for by section 2148 of the Revised Statutes; and as such fine is impossible of collection, the law providing for its imposition is of no effect.

The frequent furnishing of troops to remove these trespassers involves much expense to the Government without any practical results, and it therefore becomes important in the interest of the military service and of public economy that the existing law imposing a penalty of fine should be amended by providing also a penalty of imprisonment for unlawfully entering upon the Indian lands.

I invite attention to my remarks upon this subject as contained on page 24 of my last annual report (copy inclosed), and respectfully recommend that the matter be presented for the consideration of Congress.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
Secretary of War.

The PRESIDENT.

A BILL to amend section twenty-one hundred and forty-eight of the Revised Statutes of the United States, in relation to trespassers on Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-one hundred and forty-eight of the Revised Statutes of the United States be amended so as to read as follows, namely:

"Every person who without authority of law enters and shall be found upon any Indian lands, tribal reservation, or lands specially set apart for Indian purposes shall, for the first offense, upon conviction thereof, pay a fine of not more than five hundred dollars, and be imprisoned at hard labor for not more than one year; and for every subsequent offense shall, upon conviction thereof, pay a fine of not more than one thousand dollars and not less than five hundred dollars, and be imprisoned at hard labor for not more than two years nor less than one year; and the wagons, teams, and outfit of such person or persons so offending shall be seized and delivered to the proper United States officer, and be proceeded against by libel in the proper court, and forfeited, one-half to the informer and the other half to the United States; and in all cases arising under this act Indians shall be competent witnesses: *Provided, however,* That the provisions of this section shall not apply to emigrants or travelers peaceably passing through such Indian lands, tribal reservations, or lands especially set apart for Indian purposes, without committing any willful trespass or injury to person or property."

A BILL to amend section twenty-one hundred and forty-eight of the Revised Statutes of the United States, in relation to trespassers on Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-one hundred and forty-eight of the Revised Statutes of the United States be amended to read as follows, namely:

"Every person who, without authority of law, enters and shall be found upon any Indian lands, tribal reservation, or lands specially set apart for Indian purposes, with intent to occupy any such lands or reservation, or any part thereof, shall, for the first offense, upon conviction thereof, pay a fine of not more than five hundred dollars, or be imprisoned at hard labor for not more than one year, or both, in the discretion of the court; and for every subsequent offense shall, upon conviction thereof, pay a fine of not more than one thousand dollars and be imprisoned at hard labor for not more than two years: *Provided, however,* That the provisions of this section shall not apply to emigrants or travelers peaceably passing through such Indian lands, tribal reservations, or lands especially set apart for Indian purposes, without committing any willful trespass or injury to person or property."