

7-25-1890

Letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, recommending the amendment of the law relative to certain intruders upon Indian reservations.

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Recommended Citation

S. Exec. Doc. No. 192, 51st Cong., 1st Sess. (1890)

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LETTER
FROM
THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A communication from the Commissioner of Indian Affairs, recommending the amendment of the law relative to certain intruders upon Indian reservations.

JULY 25, 1890.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, July 24, 1890.

SIR: I have the honor to transmit herewith copy of a communication of 21st instant, from the Commissioner of Indian Affairs, and letter of United States Indian Agent Bennett, of the Union Agency, Indian Territory, recommending for reasons given the amendment of section 2148 of the Revised Statutes so as to make persons returning to an Indian reservation, after they have been once removed therefrom as intruders, liable to a penalty of fine or imprisonment, or both, instead of a penalty of fine simply as now provided; and also a draught of a bill amending the statute as suggested.

Concurring in the recommendation of the Commissioner, the matter is presented with request for the favorable consideration of Congress.

Very respectfully,

JOHN W. NOBLE,
Secretary.

The PRESIDENT OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, July 21, 1890.

SIR: I am in receipt of a letter of June 19, 1890 (copy herewith), from Agent Bennett, of the Union Agency, Indian Territory, recommending the amendment of section 2148 of the Revised Statutes so as to make persons returning to an Indian reservation, after they have been once removed therefrom as intruders, liable to a penalty of fine or imprisonment, or both, instead of a penalty of fine simply as now provided.

The agent says that the law as it now stands is rendered inoperative by the fact that intruders in the Indian country are generally of a class which is financially irresponsible, and from whom the penalty of \$1,000

can not be collected; that nearly every intruder who has been removed in the past five years has returned and in many instances is back on the reservation before the officer making the removal.

There are a great many intruders on the lands of the five civilized tribes of Indians in the Indian Territory whose removal has been repeatedly and persistently requested by the authorities of those tribes.

Authority has been granted by the Department for the removal of intruders from the Chickasaw Nation, but it would seem almost unnecessary to undertake the execution thereof, unless there is some penalty provided by law that can be imposed on those intruders who return to the Indian country after their removal which will have the effect to prevent these people from coming back to the Nation after they have been put off.

Agent Bennett recommends that the penalty be fixed at imprisonment for not less than thirty nor more than ninety days, or a fine of not less than \$100 nor more than \$500, or both, in the discretion of the court, the fine, if not paid, to be served out in imprisonment at the rate of \$1 per day until satisfied, with the additional provision that if, after serving the penalty imposed, the offender remains in the Indian country more than twenty days, he shall again be liable to prosecution and to a repetition of the punishment.

In order to enable the Government to fully carry out the promises made in its treaties with the various Indian tribes with regard to the removal of intruders from their respective reservations the legislation recommended by Agent Bennett, in my opinion, should be adopted, and I have prepared a draught of a bill amending the statutes as suggested by Mr. Bennett, which I have the honor to inclose herewith in duplicate and to recommend that it be transmitted to Congress with a request for its favorable consideration thereof.

A bill (S. 1055) to amend this statute so as to impose the punishment of imprisonment on persons who return to an Indian reservation after they shall have been removed, passed the Senate during the first session of the Forty-ninth Congress (Congressional Record, Vol. 17, p. 1556), and a similar bill (H. R. 8005) was introduced by the Committee on Indian Affairs in the House of Representatives during the first session of the Fiftieth Congress (Congressional Record, Vol. 19, p. 1703), but neither measure became a law.

Very respectfully, your obedient servant,

T. J. MORGAN,
Commissioner.

The SECRETARY OF THE INTERIOR.

UNITED STATES INDIAN SERVICE, UNION AGENCY,
Muskogee, Ind. T., June 19, 1890.

SIR: Referring to previous correspondence relative to the removal of intruders from the Chickasaw country, I have the honor to recommend the repeal of section 2148, Revised Statutes, and an enactment in lieu thereof providing for the imprisonment of any person who, having been removed from the Indian country, shall thereafter return or be found in such country.

The present penalty of \$1,000 fine for returning to the Indian country after removal is a dead letter, and so far as I am advised has never been enforced, because the class of persons who are removed have no money with which to pay the penalty. Nearly every person that has been removed for the past five years has returned, and in many instances is back before the officer effecting the removal. In my judgment the penalty for returning after removal should be an imprisonment of not less than thirty nor more than ninety days, or a fine of not less than \$100 nor more than \$500, or both at the discretion of the court. Said fine, if not paid, to be served out in jail

at the rate of \$1 per day. Also at the expiration of such imprisonment the party should be given twenty days to remove from the country, failing in which, the fine and imprisonment should be repeated.

The act should state specifically that any United States court in the Indian Territory shall have jurisdiction, upon complaint of the United States agent, to try the case and assess the penalty.

Very respectfully, your obedient servant,

LEO. E. BENNETT,
United States Indian Agent.

The Commissioner of Indian Affairs, Washington, D. C.

A BILL TO AMEND SECTION 2148 OF THE REVISED STATUTES, AND FOR OTHER PURPOSES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2148 of the Revised Statutes be, and the same is hereby amended so as to read as follows, viz: "If any person who has been removed from the Indian country shall thereafter at any time return or be found within the Indian country, he shall be punishable by imprisonment for not less than thirty days nor more than ninety days, or by a fine of not less than one hundred dollars or more than five hundred dollars, or both, in the discretion of the court; *Provided*, that upon default of payment of fine the same shall be served out in imprisonment at the rate of one dollar per day until paid. *And provided further*, that if any person who shall have been fined or imprisoned, as provided in this act, shall be found within the Indian country after the expiration of twenty days from the date of his release from imprisonment or the date of his payment of fine in cases where the penalty of imprisonment is not imposed by the court, such person shall be liable to the same fines and penalties as herein provided for the punishment of persons returning to the Indian country after their removal."

SEC. 2. That it shall be the duty of the United States district attorney for the district within which the offense is committed, upon the complaint of any United States Indian agent located within said district, to institute proper proceedings in the United States district court for the punishment of such persons as may have returned to the Indian country after removal therefrom, as provided herein, and the several United States district courts are hereby given jurisdiction to try such cases and to impose the penalties.

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