

2-4-1874

Letter from the Secretary of the Interior,
transmitting a draught of a bill to amend the acts of
June 30, 1834, and February 13, 1862, to regulate
trade and intercourse with various Indian tribes

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>



Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

H.R. Exec. Doc. No. 108, 43rd Cong., 1st Sess. (1874)

This House Executive Document is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

INTERCOURSE WITH INDIAN TRIBES.

L E T T E R

FROM

THE SECRETARY OF THE INTERIOR,

TRANSMITTING

A draught of a bill to amend the acts of June 30, 1834, and February 13, 1862, to regulate trade and intercourse with various Indian tribes.

FEBRUARY 4, 1874.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., January 30, 1874.

SIR: To enable this Department, through the proper officers in the Indian service, to prevent the traffic in spirituous liquors with Indians, additional legislation would seem to be necessary in view of the information contained in a report, dated the 23d instant, from the Commissioner of Indian Affairs, a copy of which is inclosed.

I have the honor, therefore, to present herewith a draught of a bill proposing for the amendment of the act of February 13, 1862, and for the amendment of the act of 30th June, 1834, to regulate trade and intercourse with various Indian tribes, which will, it is believed, effect the object contemplated, and secure the protection of Indians, in any locality, against the pernicious traffic.

The subject is commended to the favorable consideration and action of Congress.

Very respectfully, your obedient servant,

C. DELANO,
Secretary.

The SPEAKER of the House of Representatives.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., January 23, 1874.

SIR: Agreeably to the directions contained in your communication to this office, of the 27th of September last, in relation "to the selling of

liquor to Indians," I have the honor to submit, herewith, proposed amendments to the act of February 13, 1862, which I would respectfully recommend be presented for the favorable consideration of Congress.

In the amendment to the 20th section of the act of June 30, 1834, approved February 13, 1862, to regulate trade and intercourse with Indian tribes, (Stats. at Large, vol. 12, p. 339,) after the word "person," in the first line of said act, insert in parenthesis, (*including Indians*;) and after the words "United States," in the 4th line of said act, insert the words *or to any Indian not a citizen of the United States, within the jurisdiction thereof*, so that the section will read as follows:

"That if any person (including Indians) shall sell, exchange, give, barter, or dispose of any spirituous liquor, or wine, to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or to any Indian not a citizen of the United States, within the jurisdiction thereof, or shall introduce, or attempt to introduce," &c.

The provision of the act of June 30, 1834, (section 27,) for the compensation of informers for penalties recovered under said act, is so worded that, if the prosecution is first instituted on behalf of the United States, the whole of the penalty recovered goes to the use of the United States, and the informer receives nothing. Very few persons are inclined to exert themselves and become objects of animosity, unless encouraged by reward. I, therefore, think it would be well to have a provision of law enacted, in connection with the foregoing proposed amendment, as follows:

And it is provided that all penalties which shall accrue under this act, or the act or parts of acts which this act is amendatory of, shall be sued for and recovered in an action of debt in the name of the United States, before any court having jurisdiction of the same, (in any State or Territory in which the defendant shall be arrested or found,) the one half to the use of the informer, and the other half to the use of the United States. And all acts or parts of acts contrary to the provisions of this act shall be, and the same are hereby, repealed.

The amendment "including Indians," making them liable under the act proposed to be amended, is deemed necessary from the fact that in some cases the courts have held that this act did not include them; and it is believed that the other amendment will definitely settle the question of selling liquor to Indians, and secure their protection in any locality, "whether in charge of a superintendent of Indian affairs or agent," or not.

Very respectfully, your obedient servant,

EDWARD P. SMITH,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the 20th section of the trade and intercourse act of June 30, 1834, which was amended by the act approved February 13, 1862, be further amended so as to read as follows:

SEC. 20. That if any person, including Indians, shall sell, exchange, give, barter, or dispose of any spirituous liquor or wine to any Indian under the charge of any Indian superintendent or Indian agent appointed by the United States, or to any Indian not a citizen of the United States within the jurisdiction thereof, or shall introduce, or attempt to introduce, &c.

SEC. 2. *And be it further enacted, That section 27 of the trade and intercourse act of Jun*

30. § 834, be amended so as to read as follows, viz : Sec. 27. And it is *provided*, That all penalties which shall accrue under this act or the acts or parts of acts of which this act is amendatory, shall be sued for and recovered in an action of debt, in the name of the United States, before any court having jurisdiction of the same in any State or Territory in which the defendant shall be arrested or found ; the one half to the use of the informer, and the other half to the use of the United States.

SEC. 3. *And be it further enacted* That it shall be the duty of any United States marshal upon the request of the Secretary of the Interior, the Commissioner of Indian Affairs, or any Indian inspector or superintendent of Indian affairs, or Indian agent, to go within and upon any Indian reservation, or upon the Indian territory, so called, and there execute any power or authority conferred upon any officer by any act of Congress prohibiting the introduction or sale of spirituous liquors among Indians, said acts of Congress being generally known as regulating trade and intercourse with various Indian tribes ; and all acts or parts of acts inconsistent with the provisions of this act shall be, and the same are hereby, repealed.

○