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### Amending section 2139, Revised Statutes.

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AMENDING SECTION 2139, REVISED STATUTES.

JANUARY 20, 1898.—Referred to the House Calendar and ordered to be printed.

Mr. FISCHER, from the Committee on Indian Affairs, submitted the following

REPORT.

[To accompany H. R. 6085.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 6085) amending section 2139 of the Revised Statutes of the United States, submit the following report:

Section 2139 of the Revised Statutes of the United States, as amended by the act of July 23, 1892, is as follows:

SEC. 2139. No ardent spirits, ale, beer, wine, or intoxicating liquor or liquors of whatever kind shall be introduced, under any pretense, into the Indian country. Every person who sells, exchanges, gives, barter, or disposes of any ardent spirits, ale, beer, wine, or intoxicating liquors of any kind to any Indian under charge of any Indian superintendent or agent, or introduces or attempts to introduce any ardent spirits, ale, wine, beer, or intoxicating liquor of any kind into the Indian country shall be punished by imprisonment for not more than two years, and by fine of not more than three hundred dollars for each offense. But it shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority in writing from the War Department or any officer duly authorized thereunto by the War Department. All complaints for the arrest of any person or persons made for the violation of any of the provisions of this act shall be made in the county where the offense shall have been committed, or if committed upon or within any reservation not included in any county, then in any county adjoining such reservation, and if in the Indian Territory, before the United States court commissioner or commissioner of the circuit court of the United States residing nearest the place where the offense was committed, who is not for any reason disqualified; but in all cases such arrests shall be made before any United States court commissioner residing in such adjoining county, or before any magistrate or judicial officer authorized by the laws of the State in which such reservation is located to issue warrants for the arrest and examination of offenders by section ten hundred and fourteen of the Revised Statutes of the United States. And all persons so arrested shall, unless discharged upon examination, be held to answer and stand trial before the court of the United States having jurisdiction of the offense.

Approved July 23, 1892.

There are six Indian reservations in the State of New York, as follows: Allegany, in Cattaraugus County; Cattaraugus, in Cattaraugus, Chautauqua, and Erie counties; Onondaga, in Onondaga County; St. Regis, in Franklin County; Tonawanda, in Erie, Genesee, and Niagara counties, and Tuscarora, in Niagara County.

It is the purpose of this bill simply to allow the violators of section 2139 of the Revised Statutes of the United States to be prosecuted and punished by the courts of the State of New York in accordance with existing laws in that State, which are sufficient.

Section 20 of the so-called "Raines law" (Laws of New York, 1896, p. 72) provides that no person "shall sell or give away any liquors to any Indian." Paragraph 33 of section 56 of the Code of Criminal Procedure provides that such sale or gift is a misdemeanor and punishable "by imprisonment in a penitentiary or county jail for not more than one year or by a fine of not more than \$500, or by both."

It is the practice in the northern district of New York, in which are located these six reservations, for a class of low people to give Indians liquor for the purpose of securing for themselves comfortable places in jail during the winter months and of furnishing large fees and mileage to a few Indians who are needed for witnesses by the Government. Terms of the United States court are held at Auburn in November, Albany in January, and Utica in March. These cities are from 150 to 300 miles from the Allegany and Cattaraugus reservations, and in order to prosecute these trivial cases, most of which are made up for the reason indicated, it is necessary to transport such Indian witnesses to these cities. Hon. A. C. Coxe, judge of the United States district court, is authority for the statement that if this incubus can be gotten out of the way it will save the United States \$20,000 annually and relieve the United States court of an almost intolerable nuisance, which can not be eradicated so long as such cases must be prosecuted under section 2139 of the Revised Statutes of the United States instead of under the laws of the State of New York, which are ample.

There is no reason known to the committee why such cases should not be prosecuted under the laws of the State.

Your committee therefore report the bill back to the House with a recommendation for its passage.

