

TIMBER FOR THE USE OF INDIANS.

LETTER

FROM

THE SECRETARY OF THE INTERIOR,

RELATIVE TO

The necessity that exists for some remedial legislation in behalf of Indian tribes or bands living upon reservations, who are, by a recent decision of the Supreme Court of the United States, prevented from cutting and selling timber from the land occupied by them.

DECEMBER 23, 1874.—Referred to the Committee on Indian Affairs and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., December 17, 1874.

SIR: I have the honor to transmit herewith a copy of a communication addressed to this Department, on the 16th instant, by F. H. Smith, secretary of the board of Indian commissioners, representing the necessity that exists for some remedial legislation in behalf of Indian tribes or bands living upon reservations, who are, by a recent decision of the Supreme Court of the United States, therein cited, prevented from availing themselves of the benefits they have hitherto derived from cutting and selling timber from the lands occupied by them.

Concurring in the views and suggestions contained in the communication referred to, I have the honor, respectfully, to invite the attention of Congress to the subject, to the end that it may receive the favorable consideration and action of that body.

Very respectfully, your obedient servant,
C. DELANO, *Secretary.*

The SPEAKER of the House of Representatives.

BOARD OF INDIAN COMMISSIONERS,
Washington, D. C., December 16, 1874.

SIR: I am requested by the board of Indian commissioners to ask your attention to the effect of a recent decision of the Supreme Court in the case of *The United States vs. George Cook*, No. 161, October term, 1873, which may seriously affect the rights as well as the welfare of the Indians residing on reservations having timber thereon, which is frequently the only available resource for their support and improvement.

If this decision is to be so construed as to prohibit Indians from selling standing timber to parties outside of their reservations, or from cutting

and marketing the same for themselves, as a legitimate branch of industry, when their necessities for subsistence, culture, and civilization require such disposition, it will work the most serious injury to many Indian tribes, will greatly retard their progress in civilization, and produce not only discomfort, but absolute suffering, unless Congress shall make the necessary provisions to meet the emergencies that will arise from such construction of the decision.

In many cases Indian tribes are dependent for the support and maintenance of their schools upon the proceeds arising from the sale of timber on their reservations, which proceeds they realize either by selling or by cutting and marketing their timber. The lands embraced in these reservations are in some instances quite valueless to the Indians unless they can enjoy the privileges of selling and cutting timber thereon. While thus engaged they are taught the advantage of industry and the propriety of supporting themselves without charge to the Government.

Many reservations are located in sections of the county which are subject to forest-fires, and the timber when thus injured becomes utterly worthless unless cut within a short time. A construction of the decision which would prevent the Indians from cutting and marketing their timber in such cases would prove not only a loss to the Indians, but an absolute damage to the United States. It would render an article valueless, which otherwise would be of great service to the Indians, and sometimes to other communities.

The decision of the case referred to seems to rest upon this state of facts: A small number of Indians, without the consent of the tribe to which they belonged, and without the consent of the United States, cut timber from a part of their reservation, and sawed it into logs, which they sold. The United States brought replevin, and the action was maintained on the ground that the Indians had no right to make the sale. The reasoning of the court, however, may be claimed to go so far as to prevent a tribe from acting under the authority of its chiefs and head-men, and with the consent of the United States Indian agent, from selling its timber. It may also be so construed as to prevent the tribe, under the authority of its chiefs and head-men, from cutting and marketing any portion of the timber under any circumstances, except for fuel or for the construction of houses or other buildings for the members of the tribe. It is in view of consequences like these, likely to follow, that I desire to invite the attention of the Department to this subject, and to request that its views be presented to Congress in such way as may be deemed most likely to procure remedial legislation, if such legislation shall be deemed necessary.

The board of commissioners will, in their annual report, recommend action by Congress for the relief of tribes and bands of Indians who may be deprived of the privilege of availing themselves of the resources alluded to, by any construction of the decision in question. Inasmuch, however, as the matter is one requiring immediate attention, I am instructed, in advance of the presentation of the annual report of the board, to respectfully request that you will immediately invite the attention of Congress to this subject, and to the necessity of such measures of relief as, in your judgment, the circumstances of the case may seem to require.

Very respectfully, your obedient servant,

F. H. SMITH, *Secretary.*

Hon. C. DELANO, *Secretary of the Interior.*