

## SALE OF DEAD TIMBER ON INDIAN RESERVATIONS.

MARCH 13, 1882.—Committed to the Committee of the Whole House on the state of Union and ordered to be printed.

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

### REPORT:

[To accompany bill H. R. 5201.]

*The Committee on Indian Affairs, to whom was referred Ex. Doc. No. 56, relating to the sale of dead and damaged timber upon Indian reservations, have had the same under consideration, and respectfully report:*

That, for the reasons set forth in the following letters of the Secretary of the Interior and Commissioner of Indian Affairs, they recommend the adoption and passage of the accompanying substitute for the bill prepared by the Hon. Commissioner of Indian Affairs:

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the Interior with a draft of a bill authorizing the disposal of dead and damaged timber upon Indian reservations under the direction of the Interior Department, and correspondence noted by the Secretary.

The subject is presented for the consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,  
February 2, 1882.

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DEPARTMENT OF THE INTERIOR,  
Washington, January 19, 1882.

SIR: I have the honor to submit herewith for your consideration a draft of a bill authorizing the cutting and sale of dead and damaged timber upon Indian reservations under direction of this department, together with a copy of the letter of the Commissioner of Indian Affairs, in whose office the bill was prepared, recommending the same to favorable action.

The proposed bill has my approval; and I respectfully request that it and accompanying papers may be transmitted for the consideration of Congress.

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

S. J. KIRKWOOD,  
Secretary.

The PRESIDENT.

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DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
Washington, January 5, 1882.

SIR: Frequent applications are made to this office by Indian agents for authority to cut and sell timber, upon ordinary treaty reservations, which has been destroyed, or so damaged by forest fires, storms, and decay as to render it practically worthless for all useful purposes, unless cut and removed within a comparatively short time.

The Indians, having only the right of occupancy in such reservations, have no power to sever the timber, except for the purposes of improvement, or the better adapting the land to convenient occupation, and if the timber should be severed for the purpose of sale alone, in other words, if the cutting of the timber is the principal thing and not the incident, then the cutting is wrongful, and the timber when cut becomes the absolute property of the United States (see *United States vs. Cook*, 19 Wall., 591).

And I apprehend that the rule is the same in the case of damaged timber—at common law, windfalls are the property of the owner of the fee.

To obviate this difficulty in the class of cases mentioned, and in order that the Indians may derive some little benefit from the disposal of that which would otherwise become a total loss, I herewith submit the draft of a bill (in duplicate) calculated in my judgment to meet the requirements of the case, and respectfully recommend that, subject to your approval, it be transmitted to Congress for early action.

Very respectfully, your obedient servant,

H. PRICE,  
*Commissioner.*

The honorable the SECRETARY OF THE INTERIOR.

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A BILL authorizing the cutting and sale of dead and damaged timber upon Indian reservations under the direction of the Interior Department.

Whereas large quantities of timber upon Indian reservations, in which the Indians have only a right of occupancy, or are mere tenants at will, are annually destroyed or otherwise damaged by forest fires, storms, and in the natural process of decay, and unless cut and removed therefrom become a total loss: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be, and he hereby is, authorized to cause to be cut and sold at public sale to the highest bidder, for cash, after due public advertisement, and in such lots and quantities as he may deem judicious, all such timber upon Indian reservations of the classes denominated as may have been or may hereafter be damaged by fire, storm, or by natural decay.

SEC. 2. That the proceeds arising from all sales of such timber shall be applied, first, to the payment of any and all indebtedness incurred for labor, supplies, and expenses incident to the cutting and sale of said timber, and the surplus, if any, shall be deposited in the Treasury of the United States to the credit of the Indians occupying the reservation to which such timber shall belong, to be expended for their benefit under the direction of the Secretary of the Interior: *Provided,* That nothing herein contained shall be construed to extend so as to prevent any Indian to whom lands upon a reservation have been or may be patented or allotted in severalty, under the provisions of any treaty or act of Congress, such allotment having been first duly approved by the Secretary of the Interior, from cutting, selling, and removing for his own use and benefit, under the supervision of the proper United States Indian agent, any dead or damaged timber upon land so patented or allotted to him as aforesaid.