

VIOLATIONS OF INTERNAL REVENUE LAWS IN ALASKA.

LETTER

FROM

THE SECRETARY OF THE TREASURY,

RELATIVE TO

Violations of internal revenue laws in Alaska.

FEBRUARY 10, 1883.—Referred to the Committee on the Judiciary and ordered to be printed.

TREASURY DEPARTMENT,
February 7, 1883.

SIR: I have the honor to transmit herewith copies of letters from a special agent of this department, and from the Commissioner of Internal Revenue, relative to violations of internal revenue laws committed within the limits of the Territory of Alaska.

It appears that the enforcement of said laws in Alaska is impeded by the absence of any provision of law to confer jurisdiction in such cases upon any court.

In view of the need of a prompt remedy, I recommend that a provision to extend the jurisdiction established by section 1957 of the Revised Statutes for certain cases arising in the Territory of Alaska, to cases of violation of internal revenue laws, be added to the pending bill (H. R. 5538) to reduce internal revenue taxation.

A draft of a section to that effect is submitted herewith.

Very respectfully,

H. F. FRENCH,
Acting Secretary.

Hon. J. W. KEIFER,
Speaker of the House of Representatives, Washington, D. C.

Draft of an additional section to bill H. R. 5538 to reduce internal revenue taxation.

SEC. —. Until otherwise provided by law, all violations of internal revenue laws committed within the limits of the Territory of Alaska, shall be prosecuted in the same courts, and in the same manner as prescribed by section one thousand nine hundred and fifty-seven of the Revised Statutes of the United States, concerning violations of the several laws extended to that Territory by section one thousand nine hundred and fifty-four of the statutes.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, January 27, 1883.

SIR: I have to acknowledge receipt of a communication made to you under date of San Francisco, December 19, 1882, by Special Agent J. F. Evans, referred to me by indorsement dated December 29, calling attention to numerous violations of the internal revenue laws in the Territory of Alaska. Mr. Evans instances a brewery, and "not less than six" liquor saloons as being in operation at Alaska (Sitka?), also at Juneau "fifteen or twenty saloons in full blast," and at Wrangel "several more, in all of which tobacco is sold, as well as liquors and beer."

In view of the facts thus stated, I have the honor to submit the following suggestions:

It having been held by Judge Deady, of the United States district court for Oregon, in the case of Carr (21 Int. Rev. Record, p. 30), and in the Stephens case (28 Int. Rev. Record, p. 194), and by the Attorney-General (*vide* Secretary's letter of June 22, 1882, Alaska file, No. 8), that Alaska is to be regarded as Indian country within the meaning of section 2139, Revised Statutes, it is clear that the introduction of any spirituous liquor or wine therein is an offense punishable by fine and imprisonment, unless the acts charged are done by order of, or under authority from, the War Department.

Moreover, under the power specially conferred upon the President by section 4 of the Alaska act of July 27, 1868 (15 Stat., p. 241, now section 1955, Revised Statutes), President Grant issued an Executive order, dated February 4, 1870, prohibiting, "under the pains and penalties of law, the importation of distilled spirits into and within the district of Alaska." (Compilation of "Laws and Executive Orders relating to Alaska," &c., published by you under date of April 13, 1882, p. 8.)

It is obvious that if the law and the order above mentioned shall be strictly enforced by the appropriate authorities, it will greatly simplify and facilitate the enforcement of the internal revenue laws in Alaska, so far as concerns the illicit traffic in spirituous liquors and wines.

That the internal-revenue laws extend to the Territory of Alaska was held by Judge Deady in the case of Savaloff (reported in 17 Int. Rev. Record, p. 20). He says:

The treaty of purchase was concluded March 30, 1868, and this act (the internal-revenue act of July 20, 1868), being a general one and passed after that date, there can be no doubt that it is in force in Alaska as in any other part of the United States.

Inasmuch as all the internal-revenue laws now in force are either those re-enacted in the Revised Statutes of June 22, 1874, or those passed since December 1, 1873, they are, on the principle held in the Savaloff case, now in force in Alaska. But, as to the internal-revenue laws relating to liquors and tobacco, it was held by the Supreme Court, as early as December term, 1870, in the case of *The Cherokee tobacco* (11 Wall., p. 616), that, by the terms of section 107 of the aforesaid act of July 20, 1868 (now section 3448, Revised Statutes), the laws referred to were extended over Indian country, even where there existed a treaty with the Indian inhabitants which was contravened by such a construction. And Justice Bradley, who delivered a dissenting opinion in the case, nevertheless admitted therein that section 107 applied to the Territory of Alaska.

A serious difficulty, however, which exists as to the enforcement in that Territory of the laws relating to internal revenue, is that no jurisdiction for that purpose has been conferred by Congress upon any court. Section 1 of the Alaska act aforesaid (section 1954 of the Revised Statutes) expressly extended to and over Alaska "the laws of the United States relating to customs, commerce, and navigation," and, so far as known to me, the only laws of the United States which on the face of existing statutes are expressly extended over Alaska are those "relating to customs, commerce, and navigation." True, the act of March 3, 1873 (17 Stat., p. 530), amended said section 1 of the Alaska act so as to make it read "that the laws of the United States relating to customs, commerce, and navigation, and sections twenty and twenty-one of the Indian-intercourse act of June 30, 1834 (describing it), "be, and the same are hereby, extended to and over" Alaska, &c. Congress, however, in enacting the Revised Statutes, June 22, 1874, omitted in the re-enactment of said section 1 of the Alaska act, probably through the inadvertence of the revisers, the words which had been expressly added to that section by the said act of March 3, 1873.

Nevertheless Judge Deady, in both the Carr and the Stephens cases, hereinbefore referred to, which arose since the enactment of the Revised Statutes, held the law to be as changed by said act of March 3, 1873, without mention of the omission of such change from section 1954, Revised Statutes. But as to the internal revenue laws, it is clear that they have never been expressly mentioned either in the Alaska act of July 27, 1868, the act of March 3, 1873, or in the third chapter of Title XXIII of the Revised Statutes, the chapter specially relating to Alaska. This omission to mention the internal-revenue laws would not of itself have occasioned any difficulty, because, as before stated, it has been judicially determined that the internal-revenue laws extend *in propria vigore* to and over Alaska as well as any other laws of the United States. But it happens that the act conferring judicial jurisdiction over violations of law in Alaska upon the United States district courts in California and Oregon and the district courts of Washington (section 7 of the Alaska act aforesaid, now section 1957, Revised Statutes), virtually restricts such jurisdiction to violations of the several laws expressly extended to Alaska by the aforesaid Alaska act, and said chapter 3 of Title XXIII of the Revised Statutes, among which, as before stated, the internal-revenue laws are not included.

By an order of this office of date December 27, 1872, the Territory of Alaska was added to and is now a part of the collection district of Oregon, but under the state of the law above recited, I have been indisposed to require the collector or his deputies to make seizures or cause the arrest of persons who may be known to have violated the internal revenue laws, for the reason that there was no form to which they could appeal to have a judicial determination of the charges preferred against them or their property.

I believe that the condition of things in Alaska is such as to demand early legislation at the hands of Congress for the government of that Territory. There is a large Indian population subject to the laws of the United States, who for fifteen years have been practically left without government other than such as they instituted amongst themselves. The forests and fisheries are of vast importance and value. The deposits of precious metals are believed to be large, and are already attracting many enterprising miners.

The seal fisheries are the greatest in the world, and the fur product from the sea-otter and other fur-bearing animals is large and valuable.

The revenues of the government, since the purchase of Alaska from the rental of the seal-fisheries and from other sources in that Territory, to June 30, 1882, amount to \$3,609,170, which has been collected at an expense of \$429,818, being a net revenue of \$3,179,352.

In my opinion some simple form of government for the Territory of Alaska should, as soon as practicable, be devised and enacted by Congress, wherein provision should be made for the full enforcement of the internal revenue, as well as other laws of the United States in a regular and orderly manner.

Meantime, in view of the near approach of the end of the present Congress, and the fact that its time is so engrossed by the consideration of the bills relating to the tariff and internal-revenue taxation as that there is no probability of the success of any effort to secure the preparation and passage of any general act for the government of Alaska, I would suggest whether it would not be well to recommend to the appropriate Congressional committee the enactment at this session, as an additional section to the pending bill (H. R. 5538) to reduce internal-revenue taxation, an amendment to section 1957 of the Revised Statutes, or such other legislation as will give to some court or courts judicial jurisdiction over offenses in Alaska against the internal-revenue laws.

Very respectfully,

GREEN B. RAUM,
Commissioner.

HON. CHARLES J. FOLGER,
Secretary of the Treasury.

OFFICE OF SPECIAL AGENT, TREASURY DEPARTMENT,
San Francisco, Cal., December 19, 1882.

SIR: I respectfully call attention to the violations of the internal-revenue laws in Alaska.

There appears to have been no extension of or attempt to enforce the revenue laws in that Territory. At Sitka a brewery is in operation, and has been for a long time; also a number of saloons, not less than six. At Juneau there are fifteen or twenty saloons in full blast. At Wrangel there are several more, in all of which tobacco is sold as well as liquors and beer. The liquors are introduced either by the connivance or negligence of the customs officers, and Alaska being Indian territory, their introduction and sale is illegal and ought to be broken up, and the sale of tobacco prohibited, and penalties enforced in the absence of the prescribed license.

For reasons given in another report of even date with this, I think it important to send Special Agent Horr to Alaska, and, if the department has instructions to give in this matter of internal revenue, I will be glad to receive them.

Very respectfully,

J. F. EVANS,
Special Agent.

HON. CHAS. J. FOLGER,
Secretary of Treasury.