

DEPARTMENT OF THE INTERIOR,

UNITED STATES INDIAN INSPECTOR

FOR

INDIAN TERRITORY,

Muskogee, Ind. T., Feb. 20, 1906.

D-13404-1906

Mr. E. H. Wilson,

National Secretary Choctaw Nation,

Ft. Towson, Indian Territory.

Sir:

Referring to the act of the National Council of the Choctaw Nation approved by the Principal Chief October 26, 1905, authorizing the Principal Chief to take legal steps to recover the value of timber illegally cut from the public domain of the Choctaw Nation, you are advised that such act was disapproved by the President February 9, 1906. For your further information, I enclose a copy of Indian Office letter of February 3, 1906, in reference thereto. The act is respectfully returned herewith for appropriate disposition.

Very respectfully,

J. G. Wright
Inspector.

WMC (NLP)
Encls/547.

COPY.

DEPARTMENT OF THE INTERIOR,

Land.
7204-1906.

Office of Indian Affairs,

Washington.

February 3, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from Inspector Wright, dated January 19, 1906, transmittine for executive action a Resolution of the National Council of the Choctaw Nation, approved by the Principal Chief on October 26, 1905, entitled:

Bill No. 16. Resolution authorizing the Principal Chief to take legal steps to recover the value of timber unlawfully cut from the public domain of the Choctaw Nation.

* * * * *

Mr. Wright says that on receipt of the Resolution he addressed a communication to the Principal Chief, under date of December 4, 1905, asking for more specific information in reference to the timber alleged to have been illegally cut, and saying that his office under the direction of the Department had looked into all such matters brought to its attention and had stationed a representative in the pine district for the sole purpose of making investigations in regard to timber cutting. He encloses the answer of the Principal Chief, dated December 11, 1905, saying that the bulk of the timber illegally cut was prior to the time such representative was on the ground; that he is not in possession of all the facts in con-

nection with those transactions and is not prepared to get the data requested; but that he hopes to be able to advise the Inspector more fully with reference thereto at an early date.

Mr. Wright says that in 1903 several complaints were made to his office concerning the illegal cutting of timber from the public domain of the Choctaw Nation, and a number of letters received from the Principal Chief pertaining thereto. He invites attention to the report of the then Acting Inspector Zevelly to the Department, dated May 1, 1905, in reference to seizure of about one million feet of pine cut by the Scratch Lumber Co., reporting that in accordance with instructions from the Department the subject had been brought to the attention of the United States District Attorney for the Central District, in order that proceedings might be instituted against the company; that when he returned to duty in the Indian Territory on June 5, 1905 after an absence of ten months, he reported on June 11, 1903, in respect to timber cut in the Choctaw Nation by William Back, and mentioned the fact that a large number of cases where timber had been illegally cut had been referred to the United States District Attorney for prosecution; and that by separate communication of the same date he reported on a letter of the Principal Chief of the Choctaw Nation relating to timber cutting.

Mr. Wright says that on June 19, 1903, he submitted a report concerning the difficulties that arose in attempting to prosecute persons charged with illegal cutting of timber and re-

3.

commended that the regulations be amended so as to provide that no timber should be sold or disposed of except under contract with the Government, whether the land was being cleared for cultivation or otherwise, or had been selected as the prospective allotment of a citizen; and that this recommendation was made in accordance with the views of the United States District Attorney, who said that such amendment would assist him in securing convictions in the cases where it was alleged timber had been illegally cut.

He says that on June 23, 1903, he reported in reference to the seizure and sale of certain timber in the Choctaw Nation, saying that a large saw-mill had been seized, but that prior to its sale it was replevined, and that no further action was taken; that on June 30, 1903, he reported to the effect that the Indian Agent had been instructed to see that the Indian police seize all timber unlawfully cut, called attention to the fact that there was no authority to incur expenses in connection with the seizure and sale of timber, and recommended that such expenses be paid from the proceeds of the sale; and that authority was granted by the Department on July 6, 1903, I.T.D.5366.

The Inspector invites attention to the provisions of the act of June 6, 1900 (31 Stats., 660) as amended by the act of January 21, 1903 (32 Stats., 774), and says that on February 14, 1901 regulations were promulgated by the Department under the former act, to cover the making of contracts for procuring

timber from the lands of the Five Civilized Tribes and paying to the United States Indian Agent the royalties on the timber actually taken; that after the passage of the act of January 21, 1903, the matter of amending these regulations was considered by the Department; that an opinion was rendered by the Assistant Attorney General on August 8, 1903, holding that Choctaw and Chickasaw citizens were authorized to dispose of timber on their lands after certificate of allotment had been issued by the Commission to the Five Civilized Tribes; that this opinion was approved by the Department on the same date.

He considers that after the approval of the act of January 21, 1903, the Department had no jurisdiction with reference to the sale and cutting of timber from lands selected by Choctaw citizens after certificates of allotment had been issued, and says that his office has had considerable correspondence with the Principal Chief of the Choctaw Nation in regard to the illegal cutting of timber, that the Principal Chief has been fully advised of the instructions of the Department and of the efforts of his office to look after such matters and protect the interests of the Indians; that the Principal Chief has been requested to advise him of all cases of illegal cutting of timber, in order that proper action may be taken; that on June 18, 1903, he wrote the Principal Chief that many complaints concerning illegal cutting of timber were coming in, but that it was impossible for the Indian Agent to have his limited police force in all parts

of the Territory at the same time, and requested the Principal Chief to advise him whether the tribal police could not be instructed to assist the Agent's police in the premises; that the Principal Chief assured him that this would be done, but that little assistance was rendered by the tribal police.

Mr. Wright also says that on August 15, 1903, he informed the Principal Chief of the opinion of the Assistant Attorney General of August 8, 1903; that in all cases where the Principal Chief has written to him in reference to timber being cut illegally the complaint has been investigated, any timber found to have been cut in violation of law seized, and the matter brought to the attention of the United States District Attorney for proper action; that the Indian Agent has been instructed to have his police investigate these complaints; and that by authority of the Department a person was employed in 1904 for the specific purpose of making investigations as to the illegal cutting of timber regard to cases referred to the United States District Attorney, Mr. Wright says that the Attorney has informed him a number of times that it was almost impossible to secure conviction in such cases, as the parties invariably demand a jury trial and claim to have cut the timber under the authority of some Indian citizen, and, unless the evidence is indisputable that timber has been cut from land not claimed by any citizen, the jury will not convict; that every effort has been made by his office and that of the United States Indian Agent to protect the interests of the Indians; that the tribal authorities of the Choctaw

Nation have been fully advised in reference thereto and requested to co-operate with the Government, which they have done to some extent; that the law and regulations of the Department have been given as much publicity as possible ^{that} in all cases where the law has been violated the timber has been seized, and, where the United States Courts have not interfered, sold at public auction; but that in a number of cases where timber has been seized the attorneys have replevined it, and his office has been compelled to abide by the decision of the Courts.

The Inspector concludes that as the Department has taken proper action in all cases brought to its attention where timber has been illegally cut, the Resolution of the Council seems to be necessary. Hence he recommends that it be disapproved and that the Principal Chief notified that though the Department is desirous of protecting the interests of the Choctaw people as far as possible, it is not necessary for the Nation to go to the expense indicated in the Resolution, for, if it will furnish any information with reference to the illegal cutting of timber the subject will be investigated and referred to the United States Court.

From the Inspector's report it appears that proper action has been taken by him and by the United States Indian Agent to prevent, so far as possible, the illegal cutting of timber from the public domain of the Choctaw Nation, and that when such illegal cutting has been reported or discovered the timber has been seized

7.

and sold, unless writ of replevin was granted by the United States Court. I have the honor, therefore, to recommend that the Act be laid before the President, with request that he disapprove it, and that the Inspector be authorized to notify the Principal Chief as suggested in his report.

Very respectfully,

F. E. LEUPP,

Commissioner.

GAW-GH

4 Enclosures.

Department of the Interior.

OFFICE OF U. S. INDIAN INSPECTOR
FOR INDIAN TERRITORY,
MUSKOGEE, IND. T.



Mr. E. H. Wilson,

National Secretary Choc tau Nation,

Ft. Towson, Ind. Ter.