in charge of the reservations to be visited were accordingly furnished to its representative, who is now engaged in the work.

On the 25th of last May Governor Cutler, of Utah, transmitted to the Department clippings from Salt Lake City newspapers setting out the reported intention of certain capitalists to loot ruins situated on public lands and within Indian reservations in southeastern Utah. The "See America League" purposed committing vandalism on an extensive scale—to measure, photograph, tear down, and remove the ruins from Utah, and to erect them in Colorado for exhibition purposes. The governor asked that the Government intervene to prevent any attempt which might be made to remove these ruins without permission.

On June 9 the Office reported to the Department the action already taken for the protection of ruins and referred to the bill then before the Congress which would create the Mesa Verde National Park in the southwestern corner of Colorado, while a pending amendment to that bill would extend similar protection to the ruins within the Southern Ute Reservation, which adjoined the proposed park. Meanwhile it was recommended that superintendents in charge of reservations in southeastern Utah and vicinity be directed to see that the warning placards were still posted and to take any other action practicable to prevent any molestation or injury of objects of archeological and ethnological interest within the reservations. The superintendents were instructed accordingly, but no reports have been received from them indicating that the threats of vandalism have been carried out.

The act for the creation of the Mesa Verde National Park, approved June 29, 1906 (34 Stat. L., 616), describes the boundaries of the park and provides for its care and protection. It also provides that prehistoric ruins within 5 miles of the boundaries shall be subject to the same regulations and protection as the ruins within the park. This covers the cliff dwellings in the Southern Ute Reservation, in many respects the most extensive, characteristic, and beautiful in the whole country.

SALE OF LIQUOR TO INDIANS.

Since the Supreme Court of the United States in the Matter of Heff (197 U. S., 488) held that Indians who have received allotments are citizens of the United States and subject to the jurisdiction of the States and therefore have the right to purchase intoxicating liquors, it has been much more difficult to suppress the sale of liquor to tribal Indians and to prevent dealers from taking liquor upon the reservations, and especially upon allotments.

The Office insists that the allotment of land and the issue of trust

patents to Indians does not divest the United States of the fee; that as long as the title to such land is held in trust by the Government its status is practically the same as that of public lands, and that not until the legal title passes out of the United States does the land cease to be the property of the United States or pass beyond its control. For these reasons the Office has used all the means in its power to prosecute every person known to have taken intoxicating liquors upon allotted lands.

To illustrate the difficulties encountered in such prosecutions, attention is invited to the case of James Lincoln, an allotted Indian on the Winnebago Reservation in Nebraska, who took liquor upon allotted land and was indicted for introducing liquor into the Indian country. After a strong defense he was convicted and sentenced to pay a fine of $100 and costs of prosecution and to be imprisoned in the county jail for sixty days or until the fine and costs were paid. His imprisonment began on February 19, 1906. On April 2 he filed in the Supreme Court of the United States an application for a writ of habeas corpus, alleging that the United States had no police power or jurisdiction over the Winnebago Reservation; that the law under which the indictment was drawn was unconstitutional and void as far as it applied to that reservation, and that the United States district court was wholly without jurisdiction in the premises. This application was not heard until May 14, when the court denied the petition for writ of habeas corpus and said:

> The sixty days named as the term of imprisonment had expired before the case was submitted, and, indeed, had almost expired before the application was made for the writ. There is nothing to show whether the fine and costs have been collected upon execution, as the sentence authorizes. If not so collected, and if they can not be collected, then, though possibly still in jail, he can shortly be discharged on taking the poor debtor's oath. (Rev. Stat., sec. 1042). This section authorizes a discharge after a confinement of thirty days on account of the nonpayment of fine and costs. So that within ninety days from February 19, the time the sentence took effect, the petitioner can secure his discharge either by paying the fine and costs or by taking the poor debtor's oath, as above stated.

An effort has been made to enforce the statutes of Washington against the sale of liquor to Indians, but with no success. The superintendent in charge of the Yakima Reservation reported on July 21, 1906, that the prosecuting attorney of the county informed him that as the Indians do not pay taxes he does not purpose to put the county to any expense in prosecuting them or in giving them protection, especially when crimes are committed on the reservation; this policy, he says, is in accordance with the instructions of the county commissioners. The deplorable state of affairs which exists on the Yakima Reservation is the result of the decisions of the district

courts of the State of Washington that allotted lands are not Indian country and that it is no violation of the law to take intoxicating liquors thereon. This is only one of the many instances which could be cited to show the great necessity of having this question past upon by the Supreme Court of the United States, an object for which the Office has been laboring throughout the last year.

A very complicated case also has arisen on the former Nez Percé Reservation in Idaho. On May 1, 1893, commissioners appointed by the President pursuant to the act of February 8, 1887 (24 Stat. L., 388), made an agreement with the Nez Percé tribe for the cession to the United States of all the unallotted lands within the limits of their reservation except certain described tracts. The agreement was ratified by Congress on August 15, 1894 (28 Stat. L., 326). Article 9 of the agreement provides:

> It is further agreed that the lands by this agreement ceded, those retained, and those allotted to the said Nez Percé Indians shall be subject for a period of twenty-five years to all the laws of the United States prohibiting the introduction of intoxicants into the Indian country, and that the Nez Percé Indian allottees, whether under the care of an Indian agent or not, shall, for a like period, be subject to all the laws of the United States prohibiting the sale or other disposition of intoxicants to Indians.

The validity of this article, as far at least as it related to the land ceded, was called in question in the case of George Dick, a Umatilla Indian, who was indicted at the May term, 1905, of the United States district court for the district of Idaho for introducing liquor in the Indian country, to wit, into the Nez Percé Indian Reservation, in the county of Nez Perce. A demurrer was filed to the indictment, the grounds of which were that there was no Indian country in the county of Nez Perce and within the jurisdiction of the court, and that no offense against the laws of the United States or within the jurisdiction of the district court was charged. At the trial evidence was introduced to the effect that the offense was committed at the village of Cul de Sac, which is on the lands ceded by the Nez Percé to the United States, and that prior to the alleged offense this land had past under the town-site laws to the probate judge of Nez Perce County in trust for the inhabitants of the village. Dick was convicted and imprisoned in the State penitentiary. He then applied to the circuit court of appeals for the ninth circuit for a writ of habeas corpus directed to the warden of the penitentiary, and also for a writ of certiorari to the district court to bring up the records and proceedings in the case. The circuit court of appeals issued a writ of certiorari as prayed, and after consideration of the case held that the district court had no jurisdiction of the offense charged and directed the discharge of the prisoner. On a writ of certiorari, applied for by the

Solicitor-General, the case was carried to the Supreme Court of the United States. This writ was heard April 30, 1906, when the court held that the circuit court of appeals had no right to issue a writ of certiorari in the case, and the decision of that court was reversed and the case remanded with instructions to quash the writ of certiorari and dismiss the petition.

On June 4, 1906, the Office invited the attention of the Department to the unrestricted sale of liquor on the Nez Percé Reservation and expressed the opinion that the judgment of the district court in the Dick case should be enforced and all the saloons on the reservation be closed at once, and recommended that the matter be referred to the Department of Justice with the request that the proper United States attorney be instructed to take immediate action to stop the sale of liquor within that reservation. The Acting Attorney-General, in a letter dated June 29, addressed to the Department, said:

In regard to your request that the United States attorney be instructed to take immediate steps to prevent the sale of liquor on said reservation, I beg to say that the circumstances are such as to render it impracticable to do anything more than endeavor to obtain indictments in such cases pending the decision of the Supreme Court in the Dick case upon the present appeal, which will be heard at its next October term. While the decision of the circuit court of appeals for the ninth circuit in the Dick case was set aside by the Supreme Court last term, I am advised by the United States attorney that the district court would feel itself bound to respect the views expressed by the circuit court of appeals if any new indictments were brought to trial.

What has been said has reference only to lands situated like that in the Dick case, namely, where the title to the same has passed out of the United States. Lands still held in trust by the Government stand upon a different footing, and the introduction of liquor therein may be prevented under the act of 1897.

For several years past the Office has pointed out the necessity of having a fund for use in the employment of detectives to obtain the evidence required to prosecute the violators of the law which forbids the sale of liquor to Indians, and has recommended that the Congress be asked to make an appropriation of $10,000 for such purpose, but no funds were obtained till at the last session. The current Indian appropriation act (34 Stat. L., 328) contains the following provision:

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to take action to suppress the traffic of intoxicating liquors among Indians, twenty-five thousand dollars, fifteen thousand dollars of which to be used exclusively in the Indian Territory and Oklahoma.

Two special officers have been appointed by the Department to undertake this work, and such others will be appointed as may be found necessary to meet the exigencies of the situation. It is hoped by these means to diminish greatly the sale of intoxicating liquors to Indians.