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

REPORT

[To accompany H. R. 178]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 178) authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims, having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendments:

On page 4, lines 20 and 21, strike out the words "that may be adjudged or decreed to be due" and insert in lieu thereof the words "in the Treasury to the credit of."

On page 5, line 10, after the word "section," change the figure "5" to "6."

On page 5, line 24, beginning with the word "and," strike out all that follows down to and including "$40,000," in line 1, page 6, and insert in lieu thereof the following: "including all compensation theretofore paid said attorneys."

The report of the House Committee on Indian Affairs on this bill is attached hereto and made a part of this report.

[House Report No. 284, Sixty-ninth Congress, first session]
AUTHORIZING CHIPPEWA INDIANS TO SUBMIT CLAIMS

Statutes at Large, page 642), or arising under or growing out of any subsequent act of Congress in relation to Indian affairs which said Chippewa Indians of Minnesota may have against the United States, which claims have not heretofore been determined and adjudicated on their merits by the Court of Claims or the Supreme Court of the United States.

"Sec. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit or suits be instituted or petition filed as herein provided in the Court of Claims within five years from the date of the approval of this act, and such suit or suits shall make the Chippewa Indians of Minnesota party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the said Chippewa Indians approved in accordance with existing law; and said contract shall be executed in their behalf by a committee or committees to be selected by said Chippewa Indians as hereinafter provided. Official letters, papers, documents, and records, or certified copies thereof may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Chippewa Indians to such treaties, papers, correspondence, or records as they may require in the prosecution of any suit or suits instituted under this act.

"Sec. 3. In said suit or suits the court shall also hear, examine, consider, and adjudge any claims which the United States may have against the said Chippewa Indians, and any payment or payments which may have been made by the United States upon any claim against the United States by said Indians shall not operate as an estoppel, but may be pleaded as an offset in such suit or suits, as may gratuities, if any, paid to or expended for said Indians subsequent to January 14, 1889.

"Sec. 4. If it be determined by the court that the United States, in violation of the terms and provisions of any law, treaty, or agreement, has unlawfully appropriated or disposed of any money or other property belonging to the Indians, damages therefore shall be confined to the value of the money or other property at the time of such appropriation or disposal, together with interest thereon at 5 per cent per annum from the date thereof; and with reference to all claims which may be the subject matter of the suits herein authorized, the decree of the court shall be in full settlement of all damages, if any, committed by the Government of the United States and shall annul and cancel all claim, right, and title of the said Chippewa Indians in and to such money or other property.

"Sec. 5. If in any suit by all the Chippewas of Minnesota against the United States it appears to the court that any band or bands of said Indians are, or claim to be, the exclusive legal or equitable owners, or are entitled to, or claim, a legal or equitable interest greater than an equal distributive share with all the Chippewa Indians of Minnesota, in the proceeds of any judgment or decree that may be entered or passed in settlement of any claims submitted hereunder, the court may permit, or of its own motion compel, said band or bands to be made parties to any such suit, so that their rights may be fully and finally determined: Provided, however, That nothing herein contained shall be construed as conferring jurisdiction on the court to entertain and hear complaints or claims of a purely individual nature. In the event that any band or bands of said Indians are made parties to any suit herein authorized, the Secretary of the Interior shall ascertain, in such manner as he may deem best, the attorney desired by a majority of said Indians and shall permit the employment of an attorney under contract to represent them as provided by existing law, the compensation to be paid said attorney to be fixed by the Secretary of the Interior and paid out of any money that may be adjudged or decreed to be due said band or bands of said Indians.

"Sec. 6. Authority is hereby given for the employment of not to exceed two attorneys or firms of attorneys to represent the Chippewa Indians of Minnesota in the prosecution of any such suit. Under the direction of the Secretary of the Interior the Indians belonging on the White Earth Reservation are authorized to select a committee consisting of five of their members, and all the other Chippewa Indians in Minnesota are authorized to select a like committee from their members. Each committee so selected, or a majority thereof, is authorized to designate an attorney or firm of attorneys and to execute a contract with such attorney or firm in accordance with section 2 hereof.

"Sec. 7. The two attorneys or firms of attorneys authorized to be employed under section 5 shall each receive, during their employment, compensation at the rate of $6,000 per annum, for a period not exceeding five years, payable in monthly installments as the same become due, and the Secretary of the Treasury is hereby
AUTHORIZED CHIPPEWA INDIANS TO SUBMIT CLAIMS

authorized and directed to pay said amounts or installments out of the trust funds standing to the credit of said Indians in the Treasury of the United States, and upon the final determination of said suit the Court of Claims may separately allow said attorneys or firms of attorneys, such additional compensation as it may deem just and proper considering the nature, extent, character, and value of all services rendered, but in no event shall such additional compensation for the two attorneys or firms of attorneys be in excess of 5 per cent of the total amount recovered; and in no event shall said additional compensation for the two attorneys or firms of attorneys exceed $40,000: Provided, That any such additional compensation shall be fixed by said court in its decree and shall be paid by the Secretary of the Treasury as herein authorized from the trust funds of said Indians standing to their credit in the Treasury of the United States.

"Sec. 8. All actual and necessary expenses incurred in the prosecution of said suit by the attorney or attorneys so employed to represent the Chippewa Indians of Minnesota shall be paid by the Secretary of the Treasury as herein authorized, as they arise, out of the funds standing to the credit of said Indians in the Treasury of the United States upon first being allowed by said court and certified to the Secretary of the Interior.

"Sec. 9. Should either of the Indian committees referred to in section 6 hereof be unable or unwilling within one year from the approval by the Secretary of the Interior of the selection of said committees, to designate an attorney or firm of attorneys, the Commissioner of Indian Affairs and the Secretary of the Interior on behalf of the Indians, are hereby authorized to execute a contract with an attorney or attorneys under such terms and conditions as they may deem advisable, not inconsistent with the terms of this act.

"Sec. 10. The proceeds of all amounts, if any, recovered for said Indians shall be deposited in the Treasury of the United States to the credit of the Indians decreed by said court to be entitled thereto, and shall draw interest at the rate of 5 per cent per annum from the date of the judgment or decree. The costs incurred in any suit hereunder shall be taxed against the losing party; if against the United States such costs shall be included in the amount of the judgment or decree, and if against said Indians shall be paid by the Secretary of the Treasury, out of the funds standing to their credit in the Treasury of the United States.

This is a jurisdiction bill, and if enacted into law will enable the Chippewa Indians of Minnesota to bring suit in the Court of Claims for the purpose of establishing certain claims which have arisen out of alleged failures of the United States to carry out its obligations under the act of January 14, 1889 (25 Stat. 642), and acts passed subsequent thereto relating to the affairs of said Indians. A somewhat similar bill passed both branches of the Sixty-eighth Congress, but was vetoed by the President on the ground that it was too general and sweeping in its terms to enable the Government to know under what treaties or laws recovery was sought.

The first three sections are in the form suggested by the Secretary of the Interior after consultation with the Department of Justice, and were drawn with a view to meeting the views of the President by specifying the acts under which it is asserted the claims have arisen. As many of the claims are of long standing and have been a source of constant irritation and friction between the Government and the Chipewas, it is highly desirable that there should be a final adjudication of them as soon as possible. Many of the Indians most intimately familiar with the facts upon which the claims are based are getting old, and if their testimony is to be secured the suit must be gotten under way. The ill feeling and uncertainty incident to the present situation are detrimental to the progress of the Indians, and the earlier a final settlement can be reached the better it will be for all concerned.

The report of the Secretary of the Interior is herewith submitted. All amendments suggested therein are incorporated in the committee substitute.

DEPARTMENT OF THE INTERIOR,
Washington, February 4, 1926.

Hon. Scott Leavitt,
Chairman Committee on Indian Affairs,
House of Representatives.

My Dear Mr. Leavitt: Further reference is made to your letter of December 16, 1925, inclosing for a report a copy of House bill 178, a bill authorizing the Chippewa Indians of Minnesota to submit claims to the Court of Claims.
After the amendments, as hereinafter proposed, have been made, the bill appears to meet the needs of the Indians for the adjudication of all claims on which definite information has been obtained, and it is recommended that it receive favorable action by the Congress.

It is suggested that sections 1, 2, and 3 of the bill be eliminated and in lieu thereof the following three sections inserted:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred on the Court of Claims, with right of appeal to the Supreme Court of the United States by either party as in other cases, notwithstanding the lapse of time or statutes of limitation to hear, examine, and adjudicate and render judgment in any and all legal and equitable claims arising under or growing out of the act of January 14, 1889 (25 Stat. 642), or arising under or growing out of any subsequent act of Congress in relation to Indian Affairs which said Chippewa Indians of Minnesota may have against the United States, which claims have not heretofore been determined and adjudicated by the Court of Claims or the Supreme Court of the United States.

"Sec. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit or suits be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this act, and such suit or suits shall make the Chippewa Indians of Minnesota party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the said Chippewa Indians approved in accordance with existing law; and said contract shall be executed in their behalf by a committee or committees to be selected by said Chippewa Indians as hereinafter provided. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Chippewa Indians to such treaties, papers, correspondence, or records as they may require in the prosecution of any suit or suits instituted under this act.

"Sec. 3. In said suit or suits the court shall also hear, examine, consider, and adjudicate any claims which the United States may have against the said Chippewa Indians, but any payment or payments which may have been made by the United States upon any such claim shall not operate as an estoppel, but may be pleaded as a set-off in such suit or suits, as may any gratuities paid to or expended for said Indians subsequent to January 14, 1899."

It is also recommended that the following changes be made in section 4 of the bill:

Page 4, section 4, line 13, the term "bands or parts of bands" should be eliminated, and in lieu thereof insert the words "band or bands."

Line 20, page 4, the words "bands or parts of bands" should be eliminated, and insert the words "band or bands."

The end of line 25, page 4, and the beginning of line 1, page 5, the words "bands or parts of bands" should be eliminated, and the words "band or bands" should be inserted.

Page 5, line 9, the words "bands or parts of bands" should be eliminated, and the words "band or bands" inserted.

The Director of the Bureau of the Budget has advised that this report is not in conflict with the financial program of the President.

Very truly yours,

HUBERT WORK.