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

REPORT

[To accompany S. J. Res. 71]

The Committee on Indian Affairs, to whom was referred the resolution (S. J. Res. 71) authorizing the Secretary of the Interior to establish a trust fund for the Kiowa, Comanche, and Apache Indians in Oklahoma and making provision for the same, having considered the same, report favorably thereon with the recommendation that the resolution do pass with the following amendments:

Strike out section 2 and insert therein the following:

Sec. 2. The Secretary of the Interior is authorized to administer and disburse the moneys which are hereby appropriated, subject to the requirements of existing law, and to prescribe needful rules and regulations for carrying into effect the provisions of this act.

Page 2, line 9, after the word "taxes," insert "upon said tribal funds."

In support of this recommendation your committee would respectfully represent that the necessity or expediency for the passage of the proposed legislation rests upon the following considerations:

(a) The trust period for the Kiowa, Comanche, and Apache Tribes in Oklahoma originally fixed at 25 years is due to expire by limitation this year.

(b) The present trust period for the three tribes named is now upon the recommendation of the department in course of being extended by Executive order for an additional period of 10 years.

(c) This Executive order affects more than 3,500 allotments. Less than 100 allotments fall outside this order.

(d) The present trust fund to the credit of the Kiowas, Comanches, and Apaches is sufficient to last at the current rate of appropriation and expenditure for a period of two years. The appropriation made...
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at the present session for the next fiscal year will require approximately one-half of the existing funds.

(c) When the present funds are exhausted, it will be necessary for Congress to make appropriation out of the general funds in the Treasury to meet the absolute requirements of the members of these tribes.

(f) For a number of years it has been the policy of Congress to defray the expenses of maintaining the Kiowa, Comanche, and Apache Agency out of the trust fund credited to the three tribes. The amount appropriated for that purpose for the current fiscal year amounted to $50,500 and the aggregate amount appropriated for such purposes since this policy was adopted exceeds $469,000.

(g) As stated above, there are more than 3,500 allotments belonging to the members of these tribes which have been exempt from taxation for a quarter of a century and will be exempt under the proposed Executive order for 10 years yet to come. No State or local taxes have ever been paid on these exempt allotments, which your committee believes justifies the provision in the proposed resolution granting a certain percentage of the money to the State in lieu of taxes.

(h) The moneys dealt with in the resolution herewith reported accrued from the south half of Red River in Oklahoma from the land now owned by the United States, but which was embraced in the reservation of the Kiowas and Comanches under the treaty of 1865 and was inadvertently left out of the reservation set aside for the Kiowas, Comanches, and Apaches under the treaty made between those tribes and the United States entered into in 1867. This establishes a strong moral and equitable claim on the part of the Indians to the moneys in question, a claim which has been unofficially recognized from time to time both by the Department of Justice and by the Department of the Interior.

(i) S. J. Res. 71, herewith reported, to all intents and purposes is the same as S. J. Res. 173 and H. R. 178 of the Sixty-eighth Congress, which were referred by the Department of the Interior to the Budget Bureau and received the approval of that bureau. It is also the same to all intents and purposes as Senate Joint Resolution 63 of the present Congress. The Secretary of the Interior has reported upon the last resolution and also reported in the last Congress on Senate Joint Resolution 173 and H. R. 178 and expressed no opposition to the passage of any of these measures or to the policy therein proposed.

(j) In the light of this record your committee has felt constrained alike as an act of equity and of humanity and of sound public policy to recommend the passage of Senate Joint Resolution 71.

The report of the Secretary of the Interior, under date of March 13, 1926, on Senate Joint Resolution 63 is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, March 13, 1926.

Hon. J. W. Harreld,
Chairman Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR HARRELD: In reply to your letter of March 3, 1926, including copy of Senate Joint Resolution 63, authorizing the Secretary of the Interior to establish a trust fund for the Kiowa, Comanche, and Apache Indians of Oklahoma, I have to advise as follows:

The resolution proposes to create the fund from rentals, royalties, and bonuses heretofore or hereafter coming into the hands of the Secretary of the Interior from lands in the bed of Red River, south of the medial line thereof, except 37\textfrac{1}{2}
per cent of which it is provided shall go to the State of Oklahoma, and also excepting such amounts as may be necessary to pay awards made to claimants under the act of March 4, 1923 (42 Stat. 1448).

The lands in question were determined to be public lands of the United States by the Supreme Court (256 U. S. 70; 258 id. 574).

The act of Congress of March 4, 1923, supra, providing for the issuance of leases and permits for the development of oil and gas upon the lands, directed the consideration and equitable adjudication of existing claims. Section 5 provided that the proceeds shall be disposed of in accordance with the provisions of the general leasing act of February 25, 1920 (41 Stat. 457), except that out of 10 per cent of moneys received from royalties and rentals, and paid into the Treasury as miscellaneous receipts, the Secretary of the Interior was authorized to use and expend such part as might be necessary to pay expenses of administration and supervision over leases, permits, and the products thereof.

Under the law as thus enacted, therefore, the Secretary of the Interior was to pay the receipts to the Government in the shape of rentals, royalties, and bonuses, to be divided into three parts—one part to go to the State of Oklahoma; one part to the reclamation fund; and the remaining 10 per cent to the Treasury as miscellaneous receipts.

This is the method of disposition provided for throughout the public domain under the general leasing act, and applied to lands in Red River by said act of March 4, 1923. The amount of royalties and bonuses from Red River lands, with accrued interest thereon, to January 31, 1926, is $975,082, of which amount $365,656 would accrue to the State of Oklahoma. The amount accruing under Red River leases monthly will necessarily vary, according to production and as to whether additional drilling will produce more oil. The royalties during the month of January of this year were $6,147.13.

The second section of an act extending the time for payment of the revolving fund for the benefit of the Crow Indians, approved March 4, 1925 (43 Stat. 1301), provided:

"That the Secretary of the Interior is directed to retain in his custody, until otherwise directed by law, the 12 1/2 per centum and other royalties heretofore or hereafter received by him in pursuance of Public Act Numbered 500, Sixty-seventh Congress, approved March 4, 1923."

S. 2707 and H. R. 8236 propose to authorize the payment out of Red River receipts of $16,339.69 to Robert Toquothty, Comanche Indian allottee No. 3413. Report on S. 2707 was submitted to your committee January 21, 1926.

H. R. 8777, introduced February 2, 1926, and referred to this department for report February 4, 1926, proposed to direct the Secretary of the Interior to make payment of the royalties heretofore or hereafter received by him in pursuance of Public Act No. 500, Sixty-seventh Congress, approved March 4, 1923. Report on this measure was submitted February 10, 1926. Copy herewith.

At the time of report on said H. R. 8777, Senate Joint Resolution 63 had not been introduced and was consequently not before the department for consideration.

In view of the direction in section 2 of the act of March 4, 1925, to the Secretary to retain in his custody, until "otherwise directed by law," the moneys in question, which direction has been obeyed by this department, and of the fact that H. R. 8777 and Senate Joint Resolution 63 propose to make entirely different disposition of the moneys so held, I feel that I should not make further specific recommendation in the matter, but await the further direction of Congress as contemplated and required in said section 2 of the act of March 4, 1923, supra.

Very truly yours,

HUBERT WORK, Secretary.
The second section of "An act extending the time for repayment of the revolving fund for the benefit of the Crow Indians," approved March 4, 1925 (43 Stat. 1301), reads as follows:

"The Secretary of the Interior is directed to retain in his custody until otherwise directed by law the 12½ per centum and other royalties heretofore or hereafter received by him in pursuance of Public Act Numbered 500, Sixty-seventh Congress, approved March 4, 1923."

It is the evident purpose of the bill under consideration to repeal the foregoing provision in the act of March 4, 1925.

I see no reason whatever why the Secretary should not distribute such royalties in the manner required by law, and therefore recommend the enactment of the bill.

Very truly yours,

HUBERT WORK, Secretary.