AUTHORIZING AN EXPENDITURE OF TRIBAL FUNDS OF THE CROW INDIANS OF MONTANA TO EMPLOY COUNSEL TO REPRESENT THEM IN THEIR CLAIMS AGAINST THE UNITED STATES

JUNE 23 (calendar day, JUNE 24), 1926.—Ordered to be printed

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

R E P O R T

[To accompany H. R. 11662]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 11662) authorizing an expenditure of tribal funds of the Crow Indians of Montana to employ counsel to represent them in their claims against the United States, having considered the same, report favorably thereon with a recommendation that the bill do pass without amendment.

House Report No. 1192, Sixty-ninth Congress, first session, is attached hereto and made a part of this report.

There is also attached a letter from the Acting Secretary of the Interior to the chairman of the Committee on Indian Affairs of the House, under date of June 5, 1926.

The Committee on Indian Affairs, to whom was referred the bill (H. R. 11662) authorizing an expenditure of tribal funds of the Crow Indians of Montana to employ counsel to represent them in their claims against the United States, having considered the same, report thereon with a recommendation that it do pass.

A representative of the Crow Indians appeared before your committee and requested that this bill be enacted into law during this session of Congress. It provides for the expenditure of $5,000 from the funds of the tribe to be used in securing an attorney to represent them in their claims against the United States.

Your committee is advised that the bill has the approval of the Secretary of the Interior, but his report is not yet received and can not be incorporated in this report at this time.
EXPENDITURE OF TRIBAL FUNDS OF CROW INDIANS

INTERIOR DEPARTMENT,
Washington, June 5, 1926.

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

MY DEAR MR. LEAVITT: I have your letter of May 22, 1926, in which you request that I reconsider my report dated May 18, 1926, on H. R. 11662, "Authorizing the expenditure of tribal funds of the Crow Indians of Montana to employ counsel to represent them in their claims against the United States," with a view of making a favorable recommendation thereon.

The bill authorizes the Secretary of the Interior to use from the tribal funds mentioned the sum of $5,000 for the employment of counsel under contract, as provided by law, to present the claims of these Indians against the Government.

Proposed legislation (S. 2868) now pending in Congress for the Court of Claims to adjudicate their claims against the United States provides for the employment of necessary counsel, the fees to be fixed by the court, and not "to be in excess of the amount or amounts stipulated in the contract of employment, or in excess of a sum equal to 10 per cent of the amount of recovery against the United States."

A contract was entered into April 15, 1926, under section 2103 of the United States Revised Statutes, with the tribe and Messrs. C. J. Kappler and C. H. Merillat, attorneys of this city, which provides for the payment of a contingent fee of not to exceed 10 per cent of the amount of the judgment recovered and for a retainer fee of $5,000, the latter to be deducted from the contingent fee allowed by the court. Approval of this contract awaits an authorization by Congress for the payment of the amount stipulated in the contract as a retainer.

The act of May 18, 1916 (39 Stat. L. 123–159), provides, in effect, that Indian tribal funds can not be expended for the payment of attorney fees without a specific appropriation therefor by Congress.

The present policy contemplates that jurisdictional bills authorizing Indians to present their claims against the Government to the Court of Claims must be limited to the extent of specifying under what treaty, agreement, or law of Congress the claims arise. The Crow Tribe of Indians feel that they should be permitted to employ counsel in advance of the enactment of a jurisdictional bill, so that all of their claims may be covered by the act, and have entered into a contract, as before stated. It is believed that a retaining fee of $5,000 is not unreasonable, except that not more than $2,500 of the same should be paid upon the approval of their contract and in advance of the passage and approval of a jurisdictional bill, the other $2,500 to be paid only when the Secretary of the Interior is satisfied that services in the value of $5,000 have been rendered by them in behalf of the Indians.

With the following amendments the passage of the bill is recommended: Line 4, strike out the word "use" and insert the word "expend." After the figures "$5,000," in line 6, strike out the words "for the," and lines 7, 8, and 9, and insert—

"as a retainer to attorneys employed by the Crow Indians under contract as provided by law: Provided, That not more than $2,500 of said sum of $5,000 shall be paid to counsel upon the approval of their contract of employment, and that the remainder shall be paid to them only when the Secretary of the Interior is satisfied that services in the value of $5,000 have been rendered by them in behalf of the Indians."

The Director of the Bureau of the Budget has advised that the proposed report, if so modified, will not be in conflict with the financial program of the President.

Very truly yours,

E. C. Finney, Acting Secretary.