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## Payments to Delaware Indians

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## PAYMENTS TO DELAWARE INDIANS.

FEBRUARY 5, 1892.—Committed to the Committee of the Whole House and ordered to be printed.

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

### REPORT:

[To accompany H. R. 26.]

The Committee on Indian Affairs, to whom was referred House bill 26, having had the same under consideration, beg leave to submit the following report:

This bill seeks to pay the Delaware Indians \$39,600; \$10,715 to be paid individual members of said tribe for improvements upon lands belonging to them over which the Leavenworth, Pawnee and Western Railroad Company was granted right of way, and \$28,959.41 for the use of lands used for said right of way as provided in the concluding clause of article 3 of treaty of May 30, 1860.

These lands had been allotted to these Indians and the right of way of said railroad passed over their individual allotments, which have not been paid for by said company. It seems from the treaty that the Government is bound to the Indians for this damage and the road to the Government, which more fully appears by the following, taken from a report of the Indian Office on this subject.

The following is taken from House Report 2168, made upon H. R. 10549, first session, Fifty-first Congress, which bill contained other items due the Delawares as well as the item now contained in this bill:

The other provision of the bill upon which a report from this office is desired has relation to the payment of damages to the individual members of the Delaware tribe through whose allotted lands the Leavenworth, Pawnee and Western Railroad secured right of way, as provided in article 12 of the treaty of May 6, 1854 (10 Stats., 1048).

This bill proposes to appropriate \$20,000, or so much thereof as may be necessary, to pay the damages due the Indian claimants.

I am informally advised that it was the intention of the framers of the bill to appropriate \$30,000 for this purpose, but that by a clerical error the word "twenty" was used instead of "thirty." As the damages on account of the right of way over the allotments were appraised by a board convened by this Department in 1866, at \$28,959.41, this allotment is believed to be true.

House bill 5618, Forty-ninth Congress, first session, proposed to make an appropriation to pay these claims, and under date of March 11, 1886, this office submitted a report on the claims and a substitute for the bill; so as to make appropriation also for the payment of claims for improvements on the land sold to the Leavenworth, Pawnee and Western Railroad Company, and authorize and direct the Attorney-General to institute legal proceedings against the said railroad company, its successors or assigns for reimbursement to the United States of the sums found due the Indians on account of these claims.

Inasmuch as the United States is responsible to the Delawares for the payment of the claims, both for damages on account of the right of way over the allotted lands and for the improvements on lands sold the railroad company, and inasmuch as the

said railroad company is liable for both, I am of opinion that these two classes of claims should be considered and acted upon together; and that provision should be made at the same time for compelling the railroad company to discharge its liability in relation thereto.

I have the honor, therefore, to transmit herewith a copy of the report of March 11, 1886, on the subject, as embodying the views of this office thereon, and to recommend that the House Committee on Indian Affairs be requested to strike out the clause of the bill relating to the matter, and insert in lieu thereof the following, viz:

"The sum of thirty-nine thousand six hundred and seventy-five dollars and sixteen cents, of which ten thousand seven hundred and fifteen dollars and seventy-five cents shall be paid to individual members of the said tribe for improvements upon lands sold to the Leavenworth, Pawnee and Western Railroad Company, under the provisions of the treaty with the Delaware tribe of Indians of date May thirtieth, eighteen hundred and sixty, in accordance with the concluding paragraph of article two of said treaty, and twenty-eight thousand nine hundred and fifty-nine dollars and forty-one cents shall be paid to the individual members of said tribe through whose allotted lands the said Leavenworth, Pawnee and Western Railroad Company secured right of way, in accordance with the concluding clause of article three of the said treaty of May thirtieth, eighteen hundred and sixty: *Provided*, That the amount to be paid each member of said tribe claiming indemnity for improvements taken, and damages on account of right of way of said railroad company through the allotted lands, shall be determined by the Commissioner of Indian Affairs and approved by the Secretary of the Interior.

And the Attorney-General is hereby authorized and directed to institute the necessary legal proceedings against the Leavenworth, Pawnee and Western Railroad Company, its successors or assigns, for recovery of the amounts heretofore found by the Department of the Interior, to be due from said railroad company, its successors or assigns, under the last paragraph of the second article of the treaty with the Delaware tribe of Indians of May thirtieth, eighteen hundred and sixty, and under the concluding clause of the third article of said treaty, and for damage done the said Indians in the taking and destruction of their property by said railroad company, which sums when recovered shall be used to reimburse the United States for the sum appropriated in the foregoing paragraph of this bill."

If amended, as herein suggested, section 2 of the bill under consideration provides for the payment of just claims which should have been satisfied many years ago, and the payment of which has been repeatedly recommended by this office and the Department, as will be seen from the public documents inclosed herewith.

I recommend that the committee be requested to give its favorable consideration thereto.

Very respectfully, your obedient servant,

R. V. BELT,  
*Acting Commissioner.*

The SECRETARY OF THE INTERIOR.

It will be seen that the bill directs the Attorney-General to institute legal proceedings against said railroad company for the amount contained in said bill, which is also recommended by the Department.

Your committee recommend that the bill do pass.