TREATIES, ACTS

and

IMPORTANT DOCUMENTS

of the

Flathead Indian Reservation

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WE WOULD LIKE TO EXPRESS OUR SINCERE THANKS TO ALL THOSE, BOTH INDIAN AND WHITE, WHO HAVE HELPED US TO GATHER THE MATERIAL FOR THIS BOOK. OUR INTERESTS ARE ALL THE SAME--PEACE AND HARMONY, THROUGH MUTUAL UNDERSTANDING.

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ARTICLES OF AGREEMENT AND CONVENTION MADE AND CONDUCTED AT THE TREATY-GROUND AT HELL GATE, IN THE BITTER ROOT VALLEY, THIS SIXTEENTH DAY OF JULY IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND FIFTY-FIVE, BY AND BETWEEN ISAAC I. STEVENS, GOVERNOR AND SUPERINTENDENT OF INDIAN AFFAIRS FOR THE TERRITORY OF WASHINGTON, ON THE PART OF THE UNITED STATES, AND THE UNDERSIGNED CHIEFS, HEAD-MEN, AND DELEGATES OF THE CONFEDERATED TRIBES OF THE FLAT HEAD, KOOTENAY, AND UPPER PEND d'OREILLES INDIANS, ON BEHALF OF AND ACTING FOR SAID CONFEDERATED TRIBES, AND BEING DULY AUTHORIZED THERETO BY THEM. IT BEING UNDERSTOOD AND AGREED THAT THE SAID CONFEDERATED TRIBES DO HEREBY CONSTITUTE A NATION, UNDER THE NAME OF THE FLAT HEAD NATION, WITH VICTOR, THE HEAD CHIEF OF THE FLAT HEAD TRIBE, AS THE HEAD CHIEF OF THE SAID NATION, AND THAT THE SEVERAL CHIEFS, HEAD-MEN, AND DELEGATES, WHOSE NAMES ARE SIGNED TO THIS TREATY, DO HEREBY, IN BEHALF OF THEIR RESPECTIVE TRIBES, RECOGNIZE VICTOR AS SAID HEAD CHIEF.

Cession of lands to the U.S.

ARTICLE 1. The said confederated tribes of Indians hereby cede, relinquish, and convey to the United States all their right, title, and interest in and to the country occupied or claimed by them, bounded and described as follows, to-wit:

Boundaries

Commencing on the main ridge of the Rocky Mountains at the forty-ninth (49) parallel of latitude, thence westwardly on that parallel to the divide between the Flat-bow or Kootenay River and Clarke's Fork, thence southerly and southeasterly along said divide to the one hundred and fifteenth degree of loggitude, (115) thence in a southwesterly direction to the divide between the sources of the St. Regis Borgia and the Coeur D'Alene Rivers, thence southeasterly and southerly along the main ridge of the Bitter Root Mountains to the divide between the Head-waters of the Koos-koos-kee River and of the southwestern fork of the Bitter Root River, thence easterly along the divide separating the waters of the several tributaries of the Bitter Root River from the waters flowing into the Salmon and Snake Rivers to the main ridge of the Rocky Mountains, and thence northerly along said main ridge to the place of the beginning.

Reservations

ARTICLE 2. There is, however, reserved from the lands above ceded, for the use and occupation of the said confederated tribes, and as a general Indian reservation, upon which may be placed other friendly tribes and bands of Indians of the Territory of Washington who may agree to be consolidated with the tribes, parties to this treaty, under the common designation of the Flat Head Nation, with Victor, Head-Chief of the Flat Head Tribe, as the Head-Chief of the Nation, the tract of land included within the following boundaries, to-wit:

Boundaries

Commencing at the source of the main branch of the Jocko River; thence along the divide separating the waters flowing into the Bitter Root River from those flowing into the Jocko to a point on Clarke's Fork between the Camas and Horse Prairies; thence northerly to, and along the divide bounding on the west the Flat-Head River, to a point due west from the point half way in latitude between the northern and southern extremities of the Flat Head Lake; thence on a due east course to the divide whence the Crow, the Prune, the So-ni-el-em and the Jocko Rivers take their rise, and thence southerly along said divide to the place of beginning.

Whites not to reside thereon unless, etc.

All of which tracts shall be set apart, and, so far as necessary, surveyed and marked out for the exclusive use and benefit of said confederated tribes as an Indian reservation. Nor shall any white man, excepting those in the employment of the Indian Department, be permitted to reside upon the said reservation without permission of the confederated tribes, and the superintendent and agent. And the said confederated tribes agree to remove to and settle upon the same within one year after the ratification of this treaty. In the meantime it shall be lawful for them to reside upon any ground not that in the actual claim and occupation of citizens of the United States, and upon any ground claimed and occupied, if with the permission of the owner or claimant.

Indians to be allowed for improvements on land ceded

Guaranteeing however the right of all citizens of the United States to enter upon and occupy as settlers any lands not actually occupied and cultivated by said Indians at this time, and not included in the reservations above named. AND PROVIDED, That any substantial improvements heretofore made by any Indian, such as fields enclosed and cultivated and houses erected upon the lands hereby ceded, and which he may be compelled to abandon in consequence of this treaty, shall be valued under the direction of the President of the United States and payment made therefor in money, or improvements of an equal value be made for said Indian upon the reservation; and no Indian will be required to abandon the improvements aforesaid, now occupied by him, until their value in money or improvements of an equal value shall be furnished him as aforesaid.

Roads may be made through Reservation

ARTICLE 3. AND PROVIDED,That if necessary for the public convenience roads may be run through the said reservation; and, on the other hand, the right of way with free access from the same to the nearest public highway is secured to them, as also the right in common with citizens of the United States to travel upon the public highways.

Rights and privileges of Indians

The exclusive right of taking fish in all the streams running through or bordering said reservation is further secured to said Indians; and also the right of taking fish out of usual and accustomed places, in common with citizens of the Territory, and of erecting temporary buildings for curing; together with privilege of hunting, gathering roots and berries, and pasturing their horses and cattle upon open and unclaimed lands.

Payments by the United States

ARTICLE 4. In consideration of the above cession, the United States agrees to pay to the said confederated tribes of Indians, in addition to the goods and provisions distributed to them at the time of signing this treaty the sum of one hundred and twenty thousand dollars, in the following manner- that is to say: For the first year after the ratification thereof, thirty-six thousand dollars, to be expended under the direction of the President, in providing for their removal to the reservation, breaking up and fencing farms, building houses for them, and for such other objects as he may deem necessary.

For the next four years, six thousand dollars each year: for the next five years, five thousand dollars each year; for the next five years, four thousand dollars each year: and for the next five years, three thousand dollars each year.

How to be applied

All which said sums of money shall be applied to the use and benefit of said Indians, under the direction of the President of the United States, who may from time to time determine, at his discretion, upon what beneficial objects to expend same for them, and the Superintendent of Indian affairs, or other proper officer, shall each year inform the President of the wishes of the Indians in relation thereto.

United States to establish schools

ARTICLE 5. The United States further agree to establish at suitable points within said reservation, within one year after the ratification hereof, an agricultural and industrial school, erecting the necessary buildings, keeping the same in repair, and providing it with furniture, books and stationery, to be located at the agency, and to be free to the children of said tribes, and to employ a suitable instructor or instructors. To furnish one blacksmith shop

Mechanic's shop

to which shall be attached a tin and gun shop; one carpenter's shop, one wagon and plough maker's shop; and to keep the same in repair, and furnished with the necessary tools. To employ two farmers, one blacksmith, one tinner, one gunsmith, one carpenter, one wagon and plough maker, for the instruction of the Indians in trades, and to assist them in the same. To erect one saw-mill and one flouring mill, keeping the same in repair and furnished with the necessary tools and fixtures, and to employ two millers.

Hospital

To erect a hospital, keeping the same in repair, and provided with the necessary medicines and furniture, and to employ a physician, and to erect, keep in repair, and provide the necessary furniture the buildings require for the accomodation of said employees. The said buildings and establishments to be maintained and kept in repair as aforesaid, and the employees to be kept in service for the period of twenty years.

To pay salary to head chiefs

And in view of the fact that the head chiefs of the said confederated tribes of Indians are expected and will be called upon to perform many services of a public character, occupying much of their time the United States further agree to pay to each of the Flat Head, Kootenay, and Upper Pend d'Oreilles tribes five hundred dollars per year, for the term of twenty years after the ratification hereof, as a salary for such persons as the said confederated tribes may select to be their head chiefs, and to build for them at suitable points on the reservation a comfortable house, and properly furnish the same, and to plough and fence for each of them ten acres of land. The salary to be paid to, and the said houses to be occupied by, such head chiefs so long as they may be elected to that position by their tribes, and no longer.

Certain expenses to be borne by the United States and not charged on annuities

And all the expenditures and expenses contemplated in this article of this treaty shall be defrayed by the United States and shall not be deducted from the annuities agreed to be paid to said tribes. Nor shall the cost of transporting the goods for the annuity payments be a charge upon the annuities, but shall be defrayed by the United States.

Lots may be assigned to individuals

ARTICLE 6. The President may from time to time, at his discretion, cause the whole, or such portion of such reservation as he may think proper, to be surveyed into lots, and assign the same to such individual or families of the said confederated tribes as are willing to avail themselves of the privilege, and will locate on the same as a permanent home, on the same terms and subject to the same regulations as are provided in the sixth article of the treaty with the Omahas, so far as the same may be applicable.

Ante P. 612

Annuities not to pay individuals debts

ARTICLE 7. The annuities of the aforesaid Confederated tribes of Indians shall not be taken to pay the debts of individuals.

Indians to preserve friendly relations

ARTICLE 8. The aforesaid confederated tribes of Indians acknowledge their dependence upon the Government of the United States, and promise to be friendly with all citizens thereof, and pledge themselves to commit no depredations upon the property of such citizens. And should any one or more of them violate this pledge, and the fact be satisfactorily proved before the agent, the property shall be returned, or, in default thereof, or if injured or destroyed, compensation may be made by the Government out of annuities. Nor will they make war on any other tribe except in self-defense, but will submit all matters of difference between them and other Indians to the Government of the United States, or its agent, for decision, and abide thereby. And if any of the said Indians commit any depredations on any other Indian within the jurisdiction of the United States, the same rule shall prevail as that prescribed in this article, in case of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

To surrender offenders

Annuities to be reserved from those who drink etc. ardent spirits

ARTICLE 9. The said confederated tribes desire to exclude from their reservation the use of ardent spirits, and to prevent their people from drinking the same; and therefore it is provided that any Indian belonging to said confederated tribes of Indians who is guilty of bringing liquor into the said reservation, and who drinks liquor, may have his or her proportion of the annuities withheld from him or her for such time as the President may determine.

Guaranty of reservations against certain claims of Hudson Bay Company

ARTICLE 10. The United States further agree to guaranty the exclusive use of the reservation provided for in this treaty, as against any claims which may be urged by the Hudson Bay Company under the provisions of the treaty between the United States and Great Britain of the fifteenth of June, eighteen hundred and forty-six, in consequence of the occupation of a trading-post on the Pru-in River by the servants of that company.

Bitter Root Valley to be surveyed and portions may be set apart for reservation. Meanwhile not to be opened for settlement

ARTICLE 11. It is, moreover, provided that the Bitter Root Valley, above the Loo-lo Fork, shall be carefully surveyed and examined, and if it shall prove, in the judgment of the President, to be better adapted to the wants of the Flat Head tribe than the general reservation provided for in this treaty, then such portions of it as may be necessary shall be set apart as a separate reservation for the said tribe. No portion of the Bitter Root Valley, above the Loo-lo Fork, shall be opened to settlement until such examination is had and the decision of the President made known.

When treaty to take effect

ARTICLE 12. This treaty shall be obligatory upon the contracting parties as soon as the same shall be ratified by the President and Senate of the United States.

In testimony whereof, the said Isaac I. Stevens, governor and superintendent of Indian affairs for the territory of Washington, and the undersigned head chiefs, chiefs and principal men of the Flat Head, Kootenay and Upper Pend d'Oreilles tribes of Indians, have hereunto set their hands and seals, at the place and on the day and year hereinbefore written.

Isaac I. Stevens (L.S.)
Governor and Superintendent
Indian Affairs W.T.

VICTOR, Head Chief of the Flat Head Nation	his X mark (L.S.)
ALEXANDER, Chief of the Upper Pend d'Oreilles	his X mark (L.S.)
MICHELLE, Chief of the Kootenays	his X mark (L.S.)
AMBROSE	his X mark (L.S.)
PAH-SOH	his X mark (L.S.)
BEAR TRACK	his X mark (L.S.)
ADOLPHE	his X mark (L.S.)
THUNDER	his X mark (L.S.)
BIG CANOE	his X mark (L.S.)
KOOTEL CHAH	his X mark (L.S.)
PAUL	his X mark (L.S.)
ANDREW	his X mark (L.S.)
MICHELLE	his X mark (L.S.)
BATTESTE	his X mark (L.S.)

Kootenays

GUN FLINT	his X mark (L.S.)
LITTLE MICHELLE	his X mark (L.S.)
PAUL LEE	his X mark (L.S.)
MOSES	his X mark (L.S.)

James Doty, Secretary
W.H. Tappen, Sub-Indian Agent
Henry R. Crosire
Gustavus Sohon, Flat Head Interpreter
A.J. Hoecker, Sp. Mis.
William Craig

Whereas, the said treaty having been submitted to the Senate of the United States for their constitutional action thereon, the Senate did, on the eighth day of March, eighteen hundred and fifty-nine, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit:

"In the Executive Session
"Senate of the United States, March 8th, 1859

"Resolved, (two-thirds of the senators present concurring) that the Senate advise and consent to the ratification of treaty between the United States and chiefs, headmen and delegates of the confederated tribes of the Flat Head, Kootenay and Upper Pend d'Oreille Indians who are constituted a nation, signed sixteenth day of July, eighteen hundred and fifty-five.
Attest: Asbury Dickens, Secretary

Now, therefore, be it known that I, James Buchanan, President of the United States of America, do in pursuance of the advice and consent of the Senate, as expressed in their resolution of the eighth of March, eighteen hundred and fifty-nine, accept, ratify, and confirm said treaty.

In testimony whereof, I have hereunto caused the seal of the United States to be affixed, and have signed the same with my hand.

Done at the city of Washington, this eighteenth day of April, in the year of our Lord, eighteen hundred and fifty-nine, and of the independence of the United States the eighty-third.
(Seal) JAMES BUCHANAN

By the President:
Lewis Cass, Secretary of State

Disposition of the lands reserved

ARTICLE 6. The President may, from time to time, at his discretion, cause the whole or such portion of the land hereby reserved, as he may think proper, or of such other land as may be selected in lieu thereof, as provided for in article first, to be surveyed into lots, and to be assigned to such Indian or Indians of said tribe as are willing to avail of the privilege, and who will locate on the same as a permanent home, if a single person over twenty-one years of age, one eighth of section; to each family of two, one quarter section; to each family of three and not exceeding five, one half section; to each family of six and not exceeding ten, one section; and to each family over ten in number, one quarter section for each additional five members. And he may prescribe such rules and regulations as will insure to the family, incase of the death of the head thereof, the possession and enjoyment of such permanent home and the improvements thereon. And the President may, at any time, at his discretion, after such person or family has made a location on the land assigned for a permanent home, issue a patent to such person or family for such assigned land, conditioned that the tract shall not be aliened or leased for a longer term than two years; and shall be exempt from levy, sale or forfeiture, which conditions shall continue in force, until a state constitution, embracing such lands within its boundaries, shall have been formed, and the legislature of the state shall remove the restrictions. And if any such person or family shall at any time neglect or refuse to occupy and till a portion of the lands assigned and on which they have located, or shall rove from place to place, the President may, if the patent shall have been issued, cancel the assignment, and may also withhold from such person or family, their portion of the annuities or other moneys due them, until they shall have returned to such permanent home and resumed the pursuits of industry; and in default of their return the tract may be declared abandoned, and thereafter assigned to some other person or family of such tribe, or disposed of as is provided for the disposition of the excess of said land. And the residue of the land is hereby reserved, or of that which may be selected in lieu thereof, after all of the Indian persons or families shall have had assigned to them permanent homes, may be sold for their benefit, under such laws, rules or regulations , as may hereafter be prescribed by the Congress o. President of the United States. No State legislature shall remove the restrictions herein provided for, without the consent of Congress.

[October 17, 1855, 11 Stat. 657]

FRANKLIN PIERCE

PRESIDENT OF THE UNITED STATES OF AMERICA

To all persons to whom these presents shall come, greeting:

WHEREAS, a treaty was made and concluded at the council ground on the Upper Missouri, near the mouth of the Judith River, in the territory of Nebraska, on the seventeenth day of October, in the year one thousand eight hundred and fifty-five, between A. Cumming and Isaac I. Stevens, commissioners on the part of the United States, and the Blackfoot and other tribes of Indians, which treaty is in the words and figures following, to wit:--

Articles of agreement and convention made and concluded at the council ground on the Upper Missouri, near the mouth of the Judith River, in the territory of Nebraska, this seventeenth day of October, in the year one thousand eight hundred and fifty-five, by and between A. Cumming and Isaac I. Stevens, commissioners duly appointed and authorized, on the part of the United States, and the undersigned chiefs, headmen, and delegates of the following nations and tribes of Indians, who occupy, for the purposes of hunting, the territory on the Upper Missouri and Yellow Stone Rivers, and who have permanent homes as follows: East of the Rocky Mountains, the Blackfoot nation; consisting of the Piegan, Blood, Blackfoot, and Gros Ventres tribes of Indians. West of the Rocky Mountains, the Flathead nation; consisting of the Flathead, Upper Pend d'Oreille, and Kootenay tribes of Indians, and the Nez Perce tribe of Indians, the said chiefs, headmen and delegates, in behalf of and acting for said nations and tribes, and being duly authorized thereto by them.

ARTICLE 1. Peace, friendship and amity shall hereafter exist between the United States and the aforesaid nations and tribes of Indians, parties to this treaty, and the same shall be perpetual.

ARTICLE 2. The aforesaid nations and tribes of Indians, parties to this treaty, do hereby jointly and severally covenant that peaceful relations shall likewise be maintained among themselves in future; and that they will abstain from all hostilities whatsoever against each other, and cultivate mutual good-will and friendship. And the nations and tribes aforesaid do furthermore jointly and severally covenant, that

peaceful relations shall be maintained with and that they will abstain from all hostilities whatsoever, excepting in self-defence, against the following named nations and tribes of Indians, to wit: the Crows, Assineboins, Crees, Snakes, Blackfeet, Sans Arce, and Aunce-pa-pas bands of Sioux, and all other neighboring nations and tribes of Indians.

ARTICLE 3. The Blackfoot nation consent and agree that all that portion of the country recognized and defined by the treaty of Laramie as Blackfoot territory, lying within lanes drawn from the Hell Gate or Medicine Rock Passes in the main range of the Rocky Mountains, in an easterly direction to the nearest source of the Muscle Shell River, thence to the mouth of Twenty-five Yard Creek, thence up the Yellow Stone River to its northern source, and thence along the main range of the Rocky Mountains, in a northerly direction, to the point of beginning, shall be a common hunting-ground for ninety-nine years, where all the nations, tribes and bands of Indians, parties to this treaty, may enjoy equal and uninterrupted privileges of hunting, fishing and gathering fruit, grazing animals, curing meat and dressing robes. They further agree that they will not establish villages, or in any other way exercise exclusive rights within ten miles of the northern line of the common hunting-ground, and that the parties to this treaty may hunt on said northern boundary line and within ten miles thereof.

Provided, That the western Indians, parties to this treaty, may hunt on the trail leading down the Muscle Shell to the Yellow Stone; the Muscle Shell River being the boundary separating the Blackfoot from the Crow Territory.

And provided, That no nation, band or tribe of Indians parties to this treaty, nor any other Indians, shall be permitted to establish permanent settlements, or in any other way exercise, during the period above mentioned, exclusive rights or privileges within the limits of the above-described hunting-ground.

And provided further, That the rights of the western Indians to a whole or a part of the common hunting-ground, derived from occupancy and possession, shall not be affected by this article, except so far as said rights may be determined by the treaty of Laramie.

ARTICLE 4. The parties to this treaty agree and consent, that the tract of country lying within lines drawn from the Hell Gate or Medicine Rock Passes, in an easterly direction, to the nearest source of the Muscle Shell River, thence down said river to its mouth, thence down the channel

of the Missouri River to the mouth of Milk River, thence due north to the forty-ninth parallel, thence due west on said parallel to the main range of the Rocky Mountains, and thence southerly along said range to the place of beginning, shall be the territory of the Blackfoot nation, over which said nation shall exercise exclusive control, excepting as may be otherwise provided in this treaty. Subject, however, to the provisions of the third article of this treaty, giving the right to hunt, and prohibiting the establishment of permanent villages and the exercise of any exclusive rights within ten miles of the northern line of the common hunting-ground, drawn from the nearest source of the Muscle Shell River to the Medicine Rock Passes, for the period of ninety-nine years.

Provided also, That the Assiniboins shall have the right of hunting, in common with the Blackfeet, in the country lying between the aforesaid eastern boundary line, running from the mouth of Milk River to the forty-ninth parallel, and a line drawn from the left bank of the Missouri River, opposite the Round Butte north, to the forty-ninth parallel.

ARTICLE 5. The parties to this treaty, residing west of the main range of the Rocky Mountains, agree and consent that they will not enter the common hunting-ground, nor any part of the Blackfoot Territory, or return home, by any pass in the main range of the Rocky Mountains to the north of the Hell Gate or Medicine Rock Passes. And they further agree that they will not hunt or otherwise disturb the game, when visiting the Blackfoot Territory for trade or social intercourse.

ARTICLE 6. The aforesaid nations and tribes of Indians, parties to this treaty, agree and consent to remain within their own respective countries except when going to or from, or whilst hunting upon, the "common hunting-ground," or when visiting each other for the purpose of trade or social intercourse.

ARTICLE 7. The aforesaid nations and tribes of Indians agree that citizens of the United States may live in and pass unmolested through the countries respectively occupied and claimed by them. And the United States is hereby bound to protect said Indians against depredations and other unlawful acts which white men residing in or passing through their country may commit.

ARTICLE 8. For the purpose of establishing travelling thoroughfares through their country, and the better to enable the President to execute the provisions of this treaty, the aforesaid nations and tribes do hereby consent and agree, that the United States may, within the country respectively

occupied and claimed by them, construct roads of every description; establish lines of telegraph and military posts; use materials of every description found in the Indian country; build houses for agencies, missions, schools, farms, shops, mills, stations, and for any other purpose for which they may be required, and permanently occupy as much land as may be necessary for the various purposes above enumerated, including the use of wood for fuel and land for grazing, and that the navigation of all lakes and streams shall be forever free to citizens of the United States.

ARTICLE 9. In consideration of the foregoing agreements, stipulations, and cessions, and on condition of their faithful observance, the United States agree to expend, annually, for the Piegan, Blood, Blackfoot, and Gros Ventre tribes of Indians, constituting the Blackfoot nation, in addition to the goods and provisions distributed at the time of signing this treaty, twenty thousand dollars, annually, for ten years, to be expended in such useful goods and provisions, and other articles, as the President, at his discretion, may from time to time determine; and the superintendent, or other proper officer, shall each year inform the President of the wishes of the Indians in relation thereto: Provided, however, That if, in the judgment of the President and Senate, this amount be deemed insufficient, it may be increased not to exceed the sum of thirty-five thousand dollars per year.

ARTICLE 10. The United States further agree to expend annually, for the benefit of the aforesaid tribes of the Blackfoot nation, a sum not exceeding fifteen thousand dollars annually, for ten years, in establishing and instructing them in agricultural and mechanical pursuits, and in educating their children, and in any other respect promoting their civilization and christianization: Provided, however, That to accomplish the objects of this article, the President may, at his discretion, apply any or all the annuities provided for in this treaty: And provided, also, That the President may, at his discretion, determine in what proportions the said annuities shall be divided among the several tribes.

ARTICLE 11. The aforesaid tribes acknowledge their dependence on the government of the United States, and promise to be friendly with all citizens thereof, and to commit no depredations or other violence upon such citizens. And should any one or more violate this pledge, and the fact be proved to the satisfaction of the President, the property taken shall be returned, or, in default thereof, or if injured or destroyed, compensation may be made by the

government out of the annuities. The aforesaid tribes are hereby bound to deliver such offenders to the proper authorities for trial and punishment, and are held responsible in their tribal capacity, to make reparation for depredations so committed.

Nor will they make war upon any other tribes, except in self-defence, but will submit all matters of difference between themselves and other Indians to the government of the United States, through its agent, for adjustment, and will abide thereby. And if any of the said Indians, parties to this treaty, commit depredations on any other Indians within the jurisdiction of the United States, the same rule shall prevail as that prescribed in this article in case of depredations against citizens. And the said tribes agree not to shelter or conceal offenders against the laws of the United States, but to deliver them up to the authorities for trial.

ARTICLE 12. It is agreed and understood, by and between the parties to this treaty, that if any nation or tribe of Indians aforesaid, shall violate any of the agreements, obligations, or stipulations, herein contained, the United States may withhold for such length of time as the President and Congress may determine, any portion or all of the annuities agreed to be paid to said nation or tribe under the ninth and tenth articles of this treaty.

ARTICLE 13. The nations and tribes of Indians, parties to this treaty, desire to exclude from their country the use of ardent spirits or other intoxicating liquor, and to prevent their people from drinking the same. Therefore it is provided, that any Indian belonging to said tribes who is guilty of bringing such liquor into the Indian country, or who drinks liquor, may have his or her proportion of the annuities withheld from him or her, for such time as the President may determine.

ARTICLE 14. The aforesaid nations and tribes of Indians, west of the Rocky Mountains, parties to this treaty, do agree, in consideration of the provisions already made for them in existing treaties, to accept the guarantees of the peaceful occupation of their hunting-grounds, east of the Rocky Mountains, and of remuneration for depredations made by the other tribes, pledged to be secured to them in this treaty out of the annuities of said tribes, in full compensation for the concessions which they, in common with the said tribes, have made in this treaty.

The Indians east of the Mountains, parties to this treaty, likewise recognize and accept the guarantees of this

treaty, in full compensation for the injuries or depredations which have been, or may be committed by the aforesaid tribes, west of the Rocky Mountains.

ARTICLE 15. The annuities of the aforesaid tribes shall not be taken to pay the debts of individuals.

ARTICLE 16. This treaty shall be obligatory upon the aforesaid nations and tribes of Indians, parties hereto, from the date hereof, and upon the United States as soon as the same shall be ratified by the President and Senate.

In testimony whereof the said A. Cumming and Isaac I. Stevens, commissioners on the part of the United States, and the undersigned chiefs, headmen, and delegates of the aforesaid nations and tribes of Indians, parties to this treaty, have hereunto set their hands and seals at the place and on the day and year hereinbefore written.

A. CUMMING. [L.S.]
ISAAC I. STEVENS. [L.S.]

Piegans 10 + 4

NEE-TI-NEE, or "the only chief," now called the Lame Bull,	his x mark.	[L.S.]
MOUNTAIN CHIEF,	his x mark.	[L.S.]
LOW HORN,	his x mark.	[L.S.]
LITTLE GRAY HEAD,	his x mark.	[L.S.]
LITTLE DOG,	his x mark.	[L.S.]
BIG SNAKE,	his x mark.	[L.S.]
THE SKUNK,	his x mark.	[L.S.]
THE BAD HEAD,	his x mark.	[L.S.]
KITCH-EEPONE-ISTAH,	his x mark.	[L.S.]
MIDDLE SITTER,	his x mark.	[L.S.]

Bloods 6+2

ONIS-TAY-SAY-NAH-QUE-IM,	his x mark.	[L.S.]
THE FATHER OF ALL CHILDREN,	his x mark.	[L.S.]
THE BULL'S BACK FAT,	his x mark.	[L.S.]
HEAVY SHIELD,	his x mark.	[L.S.]
NAH-TOSE-ONISTAH,	his x mark.	[L.S.]
THE CALF SHIRT,	his x mark.	[L.S.]

Gros Ventres 3+5

BEAR'S SHIRT,	his x mark.	[L.S.]
LITTLE SOLDIER,	his x mark.	[L.S.]
STAR ROBE,	his x mark.	[L.S.]

SITTING SQUAW,	his x mark.	[L.S.]
WEASEL HORSE,	his x mark.	[L.S.]
THE RIDER,	his x mark.	[L.S.]
EAGLE CHIEF,	his x mark.	[L.S.]
HEAP OF BEARS,	his x mark.	[L.S.]

Blackfeet 3

THE THREE BULLS,	his x mark.	[L.S.]
THE OLD KOOTOMAIS,	his x mark.	[L.S.]
POW-AH-AUE,	his x mark.	[L.S.]
CHIEF RABBIT RUNNER,	his x mark.	[L.S.]

Nez Perces 12

SPOTTED EAGLE,	his x mark.	[L.S.]
LOOKING GLASS,	his x mark.	[L.S.]
THE THREE FEATHERS,	his x mark.	[L.S.]
EAGLE FROM THE LIGHT,	his x mark.	[L.S.]
THE LONE BIRD,	his x mark.	[L.S.]
IP-SHUN-NEE-WUS,	his x mark.	[L.S.]
JASON,	his x mark.	[L.S.]
WAT-TI-WAT-TI-WE-HINCK,	his x mark.	[L.S.]
WHITE BIRD,	his x mark.	[L.S.]
STABBING MAN,	his x mark.	[L.S.]
JESSE,	his x mark.	[L.S.]
PLENTY BEARS,	his x mark.	[L.S.]

Flathead Nation 12+3

VICTOR,	his x mark.	[L.S.]
ALEXANDER,	his x mark.	[L.S.]
MOSES,	his x mark.	[L.S.]
BIG CANOE,	his x mark.	[L.S.]
AMBROSE,	his x mark.	[L.S.]
KOOTLE-CHA,	his x mark.	[L.S.]
MICHELLE,	his x mark.	[L.S.]
FRANCIS,	his x mark.	[L.S.]
VINCENT,	his x mark.	[L.S.]
ANDREW,	his x mark.	[L.S.]
ADOLPHE,	his x mark.	[L.S.]
THUNDER,	his x mark.	[L.S.]

Piegans —

RUNNING RABBIT,	his x mark.	[L.S.]
CHIEF BEAR,	his x mark.	[L.S.]
THE LITTLE WHITE BUFFALO,	his x mark.	[L.S.]
THE BIG STRAW,	his x mark.	[L.S.]

Flathead ——

BEAR TRACK, his x mark. [L.S.]
LITTLE MICHELLE, his x mark. [L.S.]
PLACHINAH, his x mark. [L.S.]

Bloods ——

THE FEATHER, his x mark. [L.S.]
THE WHITE EAGLE, his x mark. [L.S.]

Executed in presence of--

JAMES DOTY, Secretary.
ALFRED J. VAUGHAN, Jr.
E. ALW. HATCH, Agent for Blackfeet.
THOMAS ADAMS, Special Agent Flathead Nation.
R. H. LANSDALE, Indian Agent Flathead Nation.
W. H. TAPPAN, Sub-Agent for the Nez Perces.
JAMES BIRD,)
A. CULBERTSON,)- Blackfoot Interpreters.
BENJ. DEROCHE,)
BENJ. KISER, his x mark,)- Flathead Interpreters.
Witness, JAMES DOTY,)
GUSTAVUS SOHON,)
W. CRAIG,)
DELAWARE JIM, his x mark,)- Nez Perce Interpreters.
Witness, JAMES DOTY)
A. CREE CHIEF, (BROKEN ARM,) his mark.
Witness, JAMES DOTY.
A. J. HOEEKEORSG,
JAMES CROKE,
E. S. WILSON,
A. C. JACKSON,
CHARLES SHUCETTE, his x mark.
CHRIST. P. HIGGINS,
A. H. ROBIE,
S. S. FORD, Jr.

And whereas, the said treaty having been submitted to the Senate of the United States for its constitutional action thereon, the Senate did, on the fifteenth day of April, eighteen hundred and fifty-six, advise and consent to the ratification of the same, by a resolution in the words and figures following, to wit:

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES,

April 15, 1856.

Resolved, (two thirds of the Senators present concurring,) That the Senate advise and consent to the ratifica-

tion of the articles of agreement and convention made and concluded between the United States and the Blackfeet and other tribes of Indians, at the council ground on the Upper Missouri River, October seventeenth, eighteen hundred and fifty-five.

Attest: ASBURY DICKINS, Secretary.

Now, therefore, be it known, that I, FRANKLIN PIERCE, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the fifteenth day of April, one thousand eight hundred and fifty-six, accept, ratify, and confirm the said treaty.

In testimony whereof, I have caused the seal of the United States to be hereto affixed, having signed the same with my hand.

Done at the city of Washington, this twenty-fifth day of April, A.D. one thousand eight hundred and fifty-
[L.S.] six, and of the independence of the United States the eightieth.

FRANKLIN PIERCE.

By the President:

W. L. MARCY, Secretary of State.

FLATHEAD INDIAN RESERVATION

ACTS

RELATING TO THE FLATHEAD INDIAN RESERVATION IN THE STATE OF MONTANA; PROVIDING FOR THE OPENING OF THE SAME TO SETTLEMENT, THE CONSTRUCTION OF IRRIGATING SYSTEMS, AND THE DISPOSAL OF THE TIMBERLANDS

COMPILED BY

CHARLES W. DRAPER

CLERK COMMITTEE ON PUBLIC LANDS

WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

FLATHEAD INDIAN RESERVATION.

AN ACT For the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment.

Flathead Indian Reservation, Mont. Allotment and sale of lands in. Vol. 12, p. 975.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to immediately cause to be surveyed all of the Flathead Indian Reservation, situated within the State of Montana, the same being particularly described and set forth in article two of a certain treaty entered into by and between Isaac H. Stevens, governor and superintendent of Indian affairs for the Territory of Washington, on the part of the United States, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille Indians, on the sixteenth day of July, eighteen hundred and fifty-five.

Allotments.

SEC. 2. That so soon as all of the lands embraced within said Flathead Indian Reservation shall have been surveyed, the Commissioner of Indian Affairs shall cause allotments of the same to be made to all persons having tribal rights with said confederated tribes of Flatheads, Kootenais, Upper Pend d'Oreille, and such other Indians and persons holding tribal relations as may rightfully belong on said Flathead Indian Reservation, including the Lower Pend d'Oreille or Kalispel Indians now on the reservation, under the provisions of the allotment laws of the United States.

Commission to appraise unallotted lands.

SEC. 3. That upon the final completion of said allotments to said Indians, the President of the United States shall appoint a commission consisting of five persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians, the said persons so constituting said commission to be as follows: Two of said commissioners so named by the President shall be two persons now holding tribal relations with said Indians—the same may be designated to the President by the chiefs and headmen of said confederated tribes of Indians, two of said commissioners shall be resident citizens of the State of Montana, and one of said commissioners shall be a United States special Indian agent or Indian inspector of the Interior Department.

Composition of.

Organization of commission.

SEC. 4. That within thirty days after their appointment said commission shall meet at some point within the boundaries of said Flathead Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary not to exceed seven dollars per day.

Clerk.

Classification, etc., of lands.

SEC. 5. That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of forty acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, timber lands, the same to be lands more valuable for their timber than for any other purpose; fourth, mineral lands; and fifth, grazing lands.

Timber lands.

SEC. 6. That said commission shall in their report of lands of the third class determine as nearly as possible the amount of standing saw timber on legal subdivisions thereof and fix a minimum price for the value thereof, and in determining the amount of merchantable timber growing thereon they shall be empowered to employ a timber cruiser, at a salary of not more than eight dollars per day while so actually employed, with such assistants as may be necessary, at a salary not to exceed six dollars per day while so actually employed.

Mineral lands.

Mineral lands shall not be appraised as to value.

Compensation.

SEC. 7. That said commissioners, excepting said special agent and inspector of the Interior Department, shall be paid a salary of not to exceed ten dollars per day each while actually employed in the

Time limit.

inspection and classification of said lands; such inspection and classification to be fully completed within one year from date of the organization of said commission.

Disposal of lands.

SEC. 8. That when said commission shall have completed the classification and appraisement of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States, except such of said

Timber and school lands excepted.

lands as shall have been classified as timber lands, and excepting sections sixteen and thirty-six of each township, which are hereby granted to the State of Montana for school purposes. And in case

Selection of school lands in lieu of lands formerly allotted.

either of said sections or parts thereof is lost to the said State of Montana by reason of allotments thereof to any Indian or Indians now holding the same, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, in the tract under consideration, to locate other lands not occupied, not exceeding two sections in any one township, and such selections shall be made prior to the opening of such lands to settlement:

Proviso.
Price to be paid Indians.

Provided, That the United States shall pay to said Indians for the lands in said sections sixteen and thirty-six, or the lands selected in lieu thereof, the sum of one dollar and twenty-five cents per acre.

Opening to settlement.

SEC. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation:

Provisos.
Existing rights of soldiers and sailors unimpaired.
Vol. 31, p. 847.
R. S., secs. 2304, 2305, p. 422.

Provided, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by the said commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments to be paid one, two, three,

Payments.

Patent.

four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry:

Forfeiture funds.

Provided, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land

covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and canceled: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made.

Right to commute entries not affected. R. S., sec. 2301, p. 421.

SEC. 10. That only mineral entry may be made on such of said lands as said commission shall designate and classify as mineral under the general provisions of the mining laws of the United States, and mineral entry may also be made on any of said lands whether designated by said commission as mineral lands or otherwise, such classification by said commission being only prima facie evidence of the mineral or nonmineral character of the same: *Provided*, That no such mineral locations shall be permitted upon any lands allotted in severalty to an Indian.

Mineral-land entries.

Proviso. Exceptions.

SEC. 11. That all of said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior under sealed bids to the highest bidder for cash or at public auction, as the Secretary of the Interior may determine, under such rules and regulations as he may prescribe.

Sale of timber lands.

SEC. 12. That the President may reserve and except from said lands not to exceed nine hundred and sixty acres for Catholic mission schools, church, and hospital and such other ~~[illegible]~~ary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, the said lands to be granted in the following amounts, namely, to the Society of Jesus, six hundred and forty acres, to the Sisters of Charity of Providence, one hundred and sixty acres, and to the Ursuline Nuns, one hundred and sixty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained and occupied by said organizations for the purposes indicated. The President is also authorized to reserve lands upon the same conditions and for similar purposes for any other missionary or religious societies that may make application therefor within one year after the passage of this act, in such quantity as he may deem proper. The President may also reserve such of said lands as may be convenient or necessary for the occupation and maintenance of any and all agency buildings, substations, mills, and other governmental institutions now in use on said reservation or which may be used or occupied by the Government of the United States.

Reservations. For Catholic religious organizations. Post, p. 1080.

For other religious organizations.

For agency, etc., buildings.

SEC. 13. That all of said lands classified as agricultural lands of the first class and agricultural lands of the second class and grazing lands that shall be opened to settlement under this act remaining undisposed of at the expiration of five years from the taking effect of this act shall be sold and disposed of to the highest bidder for cash, under rules and regulations to be prescribed by the Secretary of the Interior, at not less than their appraised value, and in tracts not to exceed six hundred and forty acres to any one person.

Sale of undisposed lands.

Maximum.

SEC. 14. That the proceeds received from the sale of said lands in conformity with this act shall be paid into the Treasury of the United States, and after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the lands, shall be expended or paid, as follows: One-half shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of the said Indians and such persons having tribal rights on the reservation, including the Lower

Disposal of proceeds.

Pend d'Oreille or Kalispel thereon at the time that this act shall take effect, in the construction of irrigation ditches, the purchase of stock cattle, farming implements, or other necessary articles to aid the Indians in farming and stock raising, and in the education and civilization of said Indians, and the remaining half to be paid to the said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Kalispel thereon at the date of the proclamation provided for in section nine hereof, or expended on their account, as they may elect.

Ante, p. 304.

Payment for lands reserved. Appropriation.

SEC. 15. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency, school, and mission purposes, as provided in sections eight and twelve of this act, at the rate of one dollar and twenty-five cents per acre; also the sum of seventy-five thousand dollars, or so much thereof as may be necessary, the same to be reimbursable out of the funds arising from the sale of said lands to enable the Secretary of the Interior to survey the lands of said reservation as provided in section one of this act.

Ante, pp. 303, 304.

Reimbursement.

Ante, p. 302.

Liability of the United States limited.

SEC. 16. That nothing in this act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent, in each township, and the reserved tracts mentioned in section twelve, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received.

Approved, April 23, 1904. (33 Stat. L., p. 302.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

SEC. 9. That section twelve, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended so as to read as follows:

Land for Catholic mission schools, etc. Ante, p. 304, amended.

"SEC. 12. That the President may reserve and except from said lands not to exceed one thousand two hundred and eighty acres for Catholic mission schools, church, and hospital, and such other eleemosynary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, the said lands to be granted in the following amounts, namely: To the Society of Jesus, six hundred and forty acres; to the Sisters of Charity of Providence, three hundred and twenty acres; and to the Ursuline Nuns, three hundred and twenty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained, used, and occupied by

said organizations for the purposes indicated, except that forty acres of the six hundred and forty acres hereinbefore mentioned as granted to the Society of Jesus are hereby granted in fee simple to said Society of Jesus, its successors and assigns: *And be it further provided*, That the President shall further reserve and except from said lands for the use of the University of Montana for biological station purposes one hundred and sixty acres, which land is hereby granted to the State of Montana for the use of the University of Montana. The governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to locate said last-mentioned lands.

Proviso. Lands granted to University of Montana.

"The President is also authorized to reserve lands upon the same conditions and for similar purposes for any other missionary or religious societies that may make application therefor within one year after the passage of this act in such quantity as he may deem proper. The President may also reserve such of said lands as may be convenient or necessary for the occupation and maintenance of any and all agency buildings, substations, mills, and other governmental institutions now in use on said reservation, or which may be used or occupied by the Government of the United States."

Land for other religious organizations.

The President is also hereby authorized to reserve not to exceed five thousand acres of timber lands for the use of said Indians as a fuel supply, undr such restrictions and regulations as may be prescribed by the Secretary of the Interior.

Indian fuel supply.

* * * * * * *

Approved, March 3, 1905. (33 Stat. L., p. 1080.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and seven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

FLATHEAD RESERVATION.

That the act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section nine of the act of March third, nineteen hundred and five (Thirty-third Statutes at Large, page one thousand and forty-eight), be amended by adding the following sections:

Town-site provisions.

"SEC. 17. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks not less than forty acres of said land at or near each of the present settlements of Arlee, Dayton, Ravalli, Dixon, and Ronan, and not less than eighty acres at the present settlements of Saint Ignatius and Polson, and at such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements.

Town sites authorized.

"Such town sites shall be surveyed, appraised, and disposed of as provided in section twenty-three hundred and eighty-one of the United States Revised Statutes: *Provided*, That any person who, at the date when the appraisers commence their work upon the land,

Surveys, etc. R. S., 2381, p. 436.

Provisos. Rights of occupants.

shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter, at any time prior to the day fixed for the public sale and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial and permanent improvements: *Provided further*, That before making entry of any such lot or lots the applicant shall make proof, to the satisfaction of the register and receiver of the land district in which the land lies, of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: *Provided further*, That in making their appraisal of the lots so surveyed, it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order, with the other unimproved and unoccupied lots; that no lot shall be sold for less than ten dollars: *And provided further*, That said lots, when surveyed, shall approximate fifty by one hundred and fifty feet in size.

Receiving proof, etc.

Duties of appraisers.

Size of lots.

Camas Hot Springs reserved.

"SEC. 18. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside one hundred and sixty acres of land at and surrounding the present hot springs, situated on said reservation near the settlement of Camas.

Control, etc.

"That said hot springs and the said one hundred and sixty acres of land last mentioned shall be under the control and direction of the Secretary of the Interior, under such rules and regulations as he may prescribe, but any and all moneys that shall be derived from such use shall be for the benefit of the persons holding tribal relations with said tribes of Indians, the same to be disbursed as provided in section thirteen of this act.

Water rights.

"SEC. 19. That nothing in this act shall be construed to deprive any of said Indians, or said persons or corporations to whom the use of land is granted by the act, of the use of water appropriated and used by them for the necessary irrigation of their lands or for domestic use or any ditches, dams, flumes, reservoirs, constructed and used by them in the appropriation and use of said water.

Appropriation for expenses.

"SEC. 20. That there is hereby appropriated, for the survey, appraisement, and sale of said town sites, out of any money in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary, the same to be reimbursable out of the funds arising from the sale of said lands: *Provided*, That the persons employed or detailed under this appropriation shall be allowed therefrom while on duty a per diem in lieu of subsistence, at a rate to be fixed by the Secretary of the Interior, not exceeding three dollars per day each, and actual necessary expenses for transportation, including necessary sleeping-car fares."

Proviso.
Per diem, etc., to employees.

* * * * * * *

Approved, June 21, 1906. (34 Stat. L., p. 354.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

To enable the Secretary of the Interior to complete the survey, allotment, classification, and appraisement of the lands in the Flathead Indian Reservation, Montana, thirty thousand dollars: *Provided*, That this sum shall be reimbursed the United States from the proceeds of the sale of the surplus lands after the allotments are made.

Allotment, etc.

Proviso. Reimburrement.

* * * * * * *

Approved, March 1, 1907. (34 Stat. L., p. 1034.)

AN ACT Making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June thirtieth, nineteen hundred and eight, and for prior years, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

For expense of surveys, allotment of lands to Indians, salaries and expenses of the commission heretofore appointed for the classification of the Flathead Indian Reservation lands, and other incidental expenses in connection with the appraisement, classification, and sale of the lands embraced in the Flathead Indian Reservation in the State of Montana, the sum of sixty thousand dollars, the same to be reimbursable from the sale of said lands.

Appraisement, allotment commission for, etc., expenses.

* * * * * * *

Approved, February 15, 1908. (35 Stat. L., p. 19.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

For preliminary surveys, plans, and estimates of irrigating systems to irrigate the allotted lands of the Indians of the Flathead Reservation in Montana and the unallotted irrigable lands to be disposed of under the act of April twenty-third, nineteen hundred and four, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," and to begin the construction of the same, fifty thousand dollars, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservation.

Irrigation. Vol. 33, p. 305. Preliminary surveys, plans, and estimates.

* * * * * * *

Approved, April 30, 1908. (35 Stat. L., p. 83.)

AN ACT Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

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National Bison Range, Mont.

NATIONAL BISON RANGE: The President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, not to exceed twelve thousand eight hundred acres of said lands, near the confluence of the Pend d'Oreille and Jocko rivers, for a permanent national bison range for the herd of bison to be presented by the American Bison Society. And there is hereby appropriated the sum of thirty thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to pay the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille, and such other Indians and persons holding tribal relations or may rightfully belong on said Flathead Indian Reservation, the appraised value of said lands as shall be fixed and determined under the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment." And the Secretary of Agriculture is hereby authorized and directed to inclose said lands with a good and substantial fence and to erect thereon the necessary sheds and buildings for the proper care and maintenance of the said bison; and there is hereby appropriated therefor the sum of ten thousand dollars or so much thereof as may be necessary; in all, forty thousand dollars.

Payment to Indians.

Fencing, etc.

* * * * * * *

Approved, May 23, 1908. (35 Stat. L., p. 267.)

AN ACT To authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Allotment and sale of lands in. Vol. 33, p. 304, amended.

SEC. 15. That section nine, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended to read as follows:

Lands opened to settlement.

"SEC. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and prescribed in section twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by the said commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments, to be paid one, two, three, four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the

Provisos.
Soldiers' and sailors' rights not affected. R. S., secs. 2304, 2305, p. 422. Vol. 31, p. 847.

Price.

Payments.

same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and canceled: *And provided*, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made: *Provided, however*, That the entryman or owner of any land irrigable by any system hereunder constructed under the provisions of section fourteen of this act shall, in addition to the payment required by section nine of said act, be required to pay for a water right the proportionate cost of the construction of said system in not more than fifteen annual installments, as fixed by the Secretary of the Interior, the same to be paid at the local land office, and the register and receiver shall be allowed the usual commissions on all moneys paid.

Forfeiture.

Commutation. R. S., sec. 2301, p. 421.

Irrigable lands. Vol. 33, p. 304, amended.

Water rights.

Payments for.

"The entryman of lands to be irrigated by said system shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay the charges apportioned against such tract. No right to the use of water shall be disposed of for a tract exceeding one hundred and sixty acres to any one person, and the Secretary of the Interior may limit the areas to be entered at not less than forty nor more than one hundred and sixty acres each.

Reclamation of part of irrigable lands.

Restriction.

"A failure to make any two payments when due shall render the entry and water-right application subject to cancellation, with the forfeiture of all rights under this act, as well as of any moneys paid thereon. The funds arising hereunder shall be paid into the Treasury of the United States and be added to the proceeds derived from the sale of the lands. No right to the use of water for lands in private ownership shall be sold to any landowner unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land, and no such right shall permanently attach until all payments therefor are made.

Cancellation and forfeiture.

Disposal of proceeds.

"All applicants for water rights under the systems constructed in pursuance of this act shall be required to pay such annual charges for operation and maintenance as shall be fixed by the Secretary of the Interior, and the failure to pay such charges when due shall render the water-right application and the entry subject to cancellation, with the forfeiture of all rights under this act as well as of any moneys already paid thereon.

Payment of annual charges.

Forfeiture.

"The Secretary of the Interior is hereby authorized to fix the time for the beginning of such payments and to provide such rules and regulations in regard thereto as he may deem proper. Upon the cancellation of any entry or water-right application, as herein provided, such lands or water rights may be disposed of under the terms of this act and at such price and on such conditions as the Secretary of the Interior may determine, but not less than the cost originally fixed.

Regulations.

Disposal of canceled entries, etc.

"The land irrigable under the systems herein provided, which has been allotted to Indians in severalty, shall be deemed to have a right to so much water as may be required to irrigate such lands without cost to the Indians for construction of such irrigation systems. The purchaser of any Indian allotment, purchased prior to the expiration of the trust period thereon, shall be exempt from any and all charge

Water rights free to Indians.

Exemptions.

Pro rata share of cost.

for construction of the irrigation system incurred up to the time of such purchase. All lands allotted to Indians shall bear their pro rata share of the cost of the operation and maintenance of the system under which they lie.

Unallotted irrigable lands.
Maintenance by owners.

"When the payments required by this act have been made for the major part of the unallotted lands irrigable under any system and subject to charges for such construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

Regulations.

"The Secretary of the Interior is hereby authorized to perform any and all acts to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect."

That section fourteen of said act be, and the same is hereby, amended to read as follows:

Disposal of proceeds.
Vol. 33, p. 305, amended.

"SEC. 14. That the proceeds received from the sale of said lands in conformity with this act shall be paid into the Treasury of the United States, and after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the land, shall be expended or paid, as follows: So much thereof as the Secretary of the Interior may deem advisable in the construction of irrigation systems, for the irrigation of the irrigable lands embraced within the limits of said reservation; one half of the money remaining after the construction of said irrigation systems to be expended by the Secretary of the Interior as he may deem advisable for the benefit of said Indians in the purchase of live stock, farming implements, or the necessary articles to aid said Indians in farming and stock raising and in the education and civilization of said Indians, and the remaining half of said money to be paid to said Indians and persons holding tribal rights on said reservation, semiannually as the same shall become available, share and share alike:

Payment of expenses.

Use of remaining funds.

Proviso.
Payment of assessed charges.

Provided, That the Secretary of the Interior may withhold from any Indian a sufficient amount of his pro rata share to pay any charge assessed against land held in trust for him for operation and maintenance of irrigation system."

* * * * * * *

Approved, May 29, 1908. (35 Stat. L., p. 448.)

AN ACT Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the year ending June thirtieth, nineteen hundred and ten.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Irrigation.
Vol. 33, p. 305.

For construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation in Montana and the unallotted irrigable lands to be disposed of under the act of April twenty-third, nineteen hundred and four, entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," including the necessary surveys, plans, and estimates, two hundred and fifty thousand dollars, one hundred thousand dollars thereof to be immediately available, the cost of said entire work to be reimbursed from

Reimbursement.

the proceeds of the sale of the lands and timber within said reservation.

That the act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by the act of June twenty-first, nineteen hundred and six, and the act of May twenty-ninth, nineteen hundred and eight, be amended by adding thereto the following sections:

Allotments, etc., vol. 33, p. 302.

Vol. 34, p. 354. *Ante*, p. 448, amended.

"SEC. 21. That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of 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 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.

Sale of intoxicants prohibited.

Prohibition term, 25 years.

Indian allottees.

"SEC. 22. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to reserve from location, entry, sale, or other appropriation all lands within said Flathead Indian Reservation chiefly valuable for power sites or reservoir sites, and he shall report to Congress such reservations."

Power and reservoir sites to be reserved.

Report to Congress.

That section eleven of the act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be amended to read as follows:

Timber lands.

Vol. 33, p. 304, amended.

"SEC. 11. That all merchantable timber on said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, for cash, under sealed bids or at public auction, as the Secretary of the Interior may determine, and under such regulations as he may prescribe: *Provided*, That after the sale and removal of the timber such of said lands as are valuable for agricultural purposes shall be sold and disposed of by the Secretary of the Interior in such manner and under such regulations as he may prescribe."

Sale of merchantable timber.

Proviso. Sale of land.

* * * * * * *

Approved, March 3, 1909. (35 Stat. L., p. 795.)

DEPARTMENT OF THE INTERIOR.
Washington, April 21, 1909.

SIR: Section 22 of the act of March 3, 1909 (Public, No. 316), authorizes the Secretary of the Interior to reserve all land within the Flathead Indian Reservation, Mont., valuable chiefly for power or reservoir sites, and provides that "he shall report to Congress such reservations."

In compliance with the act, I have the honor to advise you that the following described lands within this reservation have been reserved for the purposes mentioned in the act:

Reservoir sites.—T. 19 N., R. 19 W., the E. ½ of the E. ½ of sec. 10, and secs. 11 and 12. T. 17 N., R. 18 W., secs. 5 and 6. T. 21 N., R. 24 W., lots 3 and 4 of sec. 3 and lot 1 of sec. 4. T. 22 N., R. 24 W., the S. ½ of the S. ½ of the SW. ¼ of sec. 34—2,524.70 acres.

Power sites.—T. 22 N., R. 20 W., lot 2 of sec. 4; lots 5 and 6 of sec. 5; the SE. ¼ of the SW. ¼ of sec. 5; the S. ½ of the SE. ¼ of sec. 7; lots 3, 4, 5, 7, 8, 9, the W. ½ of lot 6, the NW. ¼ of the NW. ¼ and

the W. ½ of the SE. ¼ of the SW. ¼ of sec. 8; and lots 1, 2, and 3 of sec. 17; and lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 of sec. 18. T. 22 N., R. 21 W., lots 1, 2, and 3 of sec. 10; lots 1, 2, 3, 4, 5, 6, 7, 8, and 9 of sec. 11; the SW. ¼ of the SE ¼ and the SE ¼ of the SW. ¼ of sec. 11; lots 1, 2, 3, 4, and 5 of sec. 12; lots 1, 2, 3, 4, and 5 of sec. 13; the NW ¼ of the SE. ¼ and the SE. ¼ of the NW. ¼ of sec. 13; lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of sec. 15; lots 1, 2, 3, 6, 7, and 8 of sec. 21; the N. ½ of the NE. ¼ of sec. 22; and lots 1, 2, 3, 4, 5, and 6 of sec. 22—2,452.30 acres.

Very respectfully,

R. A. BALLINGER,
Secretary.

The PRESIDENT OF THE SENATE.

AN ACT Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and ten.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Montana National Bison Range. Maintenance of, and other reservations.

For the maintenance of the Montana National Bison Range and other reservations for mammals and birds, seven thousand dollars: and so much of the forty thousand dollars heretofore appropriated for the Montana National Bison Range as remains unexpended is hereby reappropriated, the same to be immediately available, to be expended in fencing said lands, the erection thereon of the necessary sheds and buildings, and enlarging the limits heretofore established so as to make the total acreage not to exceed twenty thousand acres, and the President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, a sufficient area to enlarge said range as herein provided;

Enlargement.

* * * * * * *

Approved, March 4, 1909. (35 Stat. L., p. 1051.)

AN ACT Making appropriations to supply urgent deficiencies in appropriations for the fiscal year nineteen hundred and ten, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

National Bison Range, Mont. Fencing, etc.

National bison range: For additional expenses necessary in erecting and completing a fence on the national bison range, on the Flathead Indian Reservation, in the State of Montana, and in constructing needed improvements thereon, seven thousand seven hundred dollars.

* * * * * * * *

Approved, February 25, 1910. (36 Stat. L., p. 215.)

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Irrigation.

For the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and

the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, two hundred and fifty thousand dollars, one hundred thousand dollars of which shall be immediately available: *Provided*, That the amount hereby appropriated, and all moneys heretofore or hereafter to be appropriated, for this project shall be repaid into the Treasury of the United States in accordance with the provisions of the Act of April thirtieth, nineteen hundred and eight, and the Act of March third, nineteen hundred and nine.

Proviso.
Repayment.
Vol. 35, pp. 82, 795.

* * * * * * *

Approved, April 4, 1910. (36 Stat. L., p. 277.)

AN ACT To amend the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," and all amendments thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana," and all amendments thereto, be amended by adding thereto the following sections:

Opening, to entry.
Vol. 33, p. 302, amended.
Vol. 34, p. 354.
Vol. 35, p. 448.

"SEC. 23. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed and subdivided into lots of not less than two acres or more than five acres in area all of the unallotted lands fronting on Flathead Lake in the State of Montana, that are embraced within the limits of the Flathead Indian Reservation, whether classified as grazing, agricultural, or timber lands, and may sell same to the highest bidder at public sale subject to the right to reject any and all bids. The proceeds from the sale of said lands, after deducting the expense of the survey and sale thereof, shall be paid into the Treasury and expended as heretofore provided in section fourteen as amended by the Act of May twenty-ninth, nineteen hundred and eight.

Subdivision and sale of land adjoining.
Post, p. 1066.

Proceeds.
Vol. 33, p. 305.
Vol. 35, p. 460.

"SEC. 24. That where allotments of lands have been made in severalty to said Indians from the lands embraced within the area of said Flathead Indian Reservation, which are or may be irrigable lands, the Secretary of the Interior may, upon application of the Indian allottee, sell and dispose of not to exceed sixty acres of such individual allotment of land under such terms and conditions of sale as the Secretary of the Interior may prescribe, one-half of the proceeds of the sale of said individual allotment to be paid to the Indian allottee and the remaining half of the proceeds of sale to be held in trust for the said Indian allottee, upon which he shall be paid annually not less than three per centum interest, the remaining principal sum to be paid to said allottee or his heirs when the full period of his trust patent for the remaining lands covered by his allotment shall have expired, or sooner, should the Secretary of the Interior, in his judgment, deem it best for said Indian allottee.

Irrigable lands.
Sale of allotments on.

Proceeds.

"SEC. 25. That the Secretary of the Interior is hereby authorized to set aside and reserve so much of the surplus unallotted and otherwise unreserved lands of the Flathead Indian Reservation as may be necessary to provide an allotment to each Indian having an allotment or any of the lands set aside and reserved for power or reservoir sites, as authorized by section twenty-two of the Act of March third, nineteen hundred and nine (Thirty-fifth Statutes at Large, page

Reservations to exchange for relinquished allotments on power, etc., sites.
Vol. 35, p. 796.

seven hundred and ninety-six), who may relinquish his allotment within such power or reservoir sites.

Condemnation of allotments on reservoir sites.

"And in the event of the failure, neglect, or refusal of any such allottee to relinquish any allotment made to him on any land reserved or necessary for reservoir sites, as aforesaid, the Secretary of the Interior is authorized to bring action under the provision of the laws of the State of Montana to condemn and acquire title to any and all lands necessary or useful for said reservoir sites that have heretofore been allotted on said Flathead Indian Reservation lands."

Approved, April 12, 1910. (36 Stat. L., p. 296.)

AN ACT Providing that entrymen for homesteads within reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead Act.

Assignment of completed homestead entries in reclamation projects
Patent to assignee.
Vol. 32, p. 388.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the filing with the Commissioner of the General Land Office of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the Act of June seventeenth, nineteen hundred and two, may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said Act of June seventeenth, nineteen hundred and two, may receive from the United States a patent for the lands: *Provided*, That all assignments made under the provisions of this Act shall be subject to the limitations, charges, terms, and conditions of the reclamation Act.

Proviso.
Condition.

Approved, June 23, 1910. (36 Stat. L., p. 592.)

AN ACT Making appropriation for sundry civil expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and eleven, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Surveys, etc.

For completing the surveys within the Flathead Indian Reservation, Montana, embracing town sites and the subdivision of unallotted lands fronting on Flathead Lake (reimbursable), ten thousand dollars.

* * * * * * *

Approved, June 25, 1910. (36 Stat. L., p. 740.)

AN ACT Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Polson Bay.

Improving Polson Bay, Flathead Lake, Montana: Completing improvement in accordance with the report submitted in House Document Numbered Six hundred and forty-five, Sixty-first Congress, second session, six thousand dollars.

* * * * * * *

Approved, June 25, 1910. (36 Stat. L., p. 666.)

AN ACT To provide for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians, for the leasing of allotments, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Classification, etc., of vacant, etc., lands. Vol. 33, p. 302.

SEC. 29. That the Secretary of the Interior be, and he is hereby, authorized to classify and appraise, under such rules and regulations as he may prescribe, all of the vacant, unallotted, and unreserved lands of the Flathead Indian Reservation, in the State of Montana, which have not been classified and appraised as provided for by the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," and the classification and appraisement made hereunder shall be of the same effect as provided for in said Act; and the said Secretary is hereby authorized to dispose of all lands classified as "barren," "burned over," and "containing small timber," under such rules and regulations as he may prescribe, at not less than their appraised value.

Disposal of

* * * * * * *

Approved, June 25, 1910. (36 Stat. L., p. 863.)

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and twelve.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Irrigation.

For the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, four hundred thousand dollars.

* * * * * * *

Easement reserved for water power.

In the issuance of patents for all tracts of land bordering upon Flathead Lake, Montana, it shall be incorporated in the patent that "this conveyance is subject to an easement of one hundred linear feet back from a contour of elevation nine feet above the high-water mark of the year nineteen hundred and nine of Flathead Lake, to remain in the Government for purposes connected with the development of water power."

* * * * * * *

Approved, March 3, 1911. (36 Stat. L., p. 1066.)

AN ACT Authorizing the Secretary of the Interior to classify and appraise unallotted Indian lands.

Indian Reservations. Classification, etc., of unallotted lands authorized.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands

within any Indian reservation opened to settlement and entry but not classified and appraised in the manner provided for in the Act or Acts opening such reservations to settlement and entry, or where the existing classification or appraisement is, in the opinion of the Secretary of the Interior, erroneous.

Approved, June 6, 1912. (37 Stat. L., p. 125.)

AN ACT Authorizing the sale of certain lands in the Flathead Indian Reservation to the town of Ronan, State of Montana, for the purposes of a public park and public-school site.

Sale of tract to Ronan, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to sell and convey to the town of Ronan, Montana, under such terms, conditions, and regulations as he may prescribe, not to exceed twenty acres of unallotted tribal land within the Flathead Indian Reservation, at not less than its appraised price; said lands to be used by the town of Ronan for school, park, or other public purposes: *Provided*, That the net proceeds received from the sale of said lands shall be deposited in the Treasury of the United States to the credit of the Flathead Indians and draw interest at the rate now provided by law, and may thereafter be used for the benefit of said Indians.

Proviso. Proceeds to credit of tribe.

Approved, July 10, 1912. (37 Stat. L., p. 192.)

AN ACT Providing for patents on reclamation entries, and for other purposes.

Reclamation Act. Homesteaders under, to receive patent when conditions completed. Vol. 32, p. 388.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any homestead entryman under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: *Provided*, That no such patent or certificate shall issue until all sums due the United States on account of such land or water right at the time of issuance of patent or certificate have been paid.

Final water-right certificates.

Proviso. Payment in full required.

Lien reserved to United States.

SEC. 2. That every patent and water-right certificate issued under this Act shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Forfeiture of title on default of payment.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with eight per centum interest and cost.

Sale, etc., authorized.

And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: *Provided*, That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs.

Proviso. Bidding in by United States.

Certificate of final payment.

SEC. 3. That upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certificate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance: *Provided*, That no person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water right application shall have been made under the said reclamation Act of June seventeenth, nineteen hundred and two, and Acts supplementary thereto and amendatory thereof, before final payment in full of all instalments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction; and this proviso shall be recited in every patent and water-right certificate issued by the United States under the provisions of this Act.

Proviso. Single holdings limited.

Excess acquired by descent, etc.

Forfeiture of prohibited excess.

Agents to receive payments.

SEC. 4. That the Secretary of the Interior is hereby authorized to designate such bonded fiscal agents or officers of the Reclamation Service as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation Act; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees, which copies shall be admissible in evidence, as are copies authenticated under section eight hundred and eighty-eight of the Revised Statutes.

Record to be kept.

Copies of records, etc.

R. S., sec. 888, p. 168.

Enforcement in district courts.

SEC. 5. That jurisdiction of suits by the United States for the enforcement of the provisions of this Act is hereby conferred on the United States district courts of the districts in which the lands are situated.

Approved, August 9, 1912. (37 Stat. L., p. 265.)

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and thirteen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

Support, etc., of Indians.

For support and civilization of Indians at Flathead Agency, Montana, including pay of employees, nine thousand dollars.

* * * * * * *

Irrigation systems.

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be disposed of under authority of law, including the necessary surveys, plans, and estimates, two hundred thousand dollars, reimbursable in accordance with the provisions of the Act of April fourth, nineteen hundred and ten.

Reimbursement. Vol. 36, p. 277.

* * * * * * *

New agency buildings, site, etc.

There is hereby appropriated the sum of forty thousand dollars, to remain available until expended, and the Secretary of the Interior is hereby authorized and empowered to use said money, or so much thereof as may be necessary, in the erection of buildings for agency purposes on the Flathead Indian Reservation in Montana; for the purchase of lands therein for an agency site not to exceed eighty acres if such is deemed by the Secretary of the Interior to be necessary for the proper location of such agency; for the expenses of the removal of the agency to the new site selected; and for the protection and repair of any other buildings required for the efficient conduct of the affairs of the Flathead Indians in Montana: *Provided*, That the entire sum expended hereunder for the purposes herein mentioned shall be reimbursed the United States from the proceeds arising from the sale of lands and timber within the Flathead Indian Reservation.

Proviso. Reimbursement from land and timber sales.

* * * * * * *

Sawmill and logging equipment and operation.

There is hereby appropriated the sum of twenty thousand dollars to remain available until expended, and the Secretary of the Interior is authorized to use this money, or so much therof as he may deem necessary, in the purchase of a sawmill and logging equipment and the employment of suitable persons to manufacture and to lumber burned timber on the Flathead Indian Reservation, Montana, and to protect the remaining timber from fire and trespass: *Provided*, That the sum expended under authority of this Act shall be reimbursed the United States from the proceeds arising from the sale of lands and timber within said reservation under existing Acts of Congress.

Proviso. Reimbursement.

* * * * * * *

Easement for water power modified. Vol. 36, p. 1066.

That so much of the Act of Congress approved March third, nineteen hundred and eleven (Thirty-sixth Statutes at Large, page one thousand and sixty-six), which provides for the reservation of an easement over tracts of land bordering Flathead Lake, Montana, be, and the same hereby is, amended to read as follows: "That an easement in, to, and over all lands bordering on or adjacent to Flathead Lake, Montana, which lie below an elevation of nine feet above the high-water mark of said lake for the year nineteen hundred and nine, is hereby reserved for uses and purposes connected with storage for irrigation or development of water power, and all patents hereafter issued for any such lands shall recite such reservation."

* * * * * * *

Approved, August 24, 1912. (37 Stat. L., p. 526.)

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and fourteen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be or which have been heretofore disposed of under authority of law, including the necessary surveys, plans, and estimates, $325,000, to be immediately available, reimbursable in accordance with the provisions of the Act of April fourth, nineteen hundred and ten.

Irrigation. Reimbursable appropriation.

* * * * * * *

Approved, June 30, 1913. (Public, No. 4.)

AN ACT To extend the provisions of the Act of June twenty-third, nineteen hundred and ten (Thirty-sixth Statutes at Large, page five hundred and ninety-two), authorizing assignment of reclamation homestead entries, and of the Act of August ninth, nineteen hundred and twelve (Thirty-seventh Statutes at Large, page two hundred and sixty-five), authorizing the issuance of patents on reclamation homestead entries, to land in the Flathead irrigation project, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of June twenty-third, nineteen hundred and ten (Thirty-sixth Statutes at Large, page five hundred and ninety-two), authorizing the assignment under certain conditions of homesteads within reclamation projects, and of the Act of August ninth, nineteen hundred and twelve (Thirty-seventh Statutes at Large, page two hundred and sixty-five), authorizing under certain conditions the issuance of patents on reclamation entries, and for other purposes, be, and the same are hereby, extended and made applicable to lands within the Flathead irrigation project, in the former Flathead Reservation, Montana, but such lands shall otherwise be subject to the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), as amended by the act of Congress approved May twenty-ninth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page four hundred and forty-eight): *Provided*, That the lien reserved to the United States on the land patented, as provided for in section two of said Act of August ninth, nineteen hundred and twelve, shall include all sums due or to become due to the United States on account of the Indian price of such land.

Assignments. Homestead entries.

Approved, July 17, 1914. (Public, No. 129, 63d Cong.)

AN ACT Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and fifteen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled—

* * * * * * *

For support and civilization of Indians at Flathead Agency, Montana, including pay of employees, $12,000.

* * * * * * *

Irrigation. Reimbursable appropriation.

For continuing the construction of irrigation systems to irrigate the allotted lands of the Indians of the Flathead Reservation, in Montana, and the unallotted irrigable lands to be or which have been heretofore disposed of under authority of law, including the necessary surveys, plans, and estimates, $200,000, reimbursable in accordance with the provisions of the Act of April fourth, nineteen hundred and ten, and to remain available until expended.

* * * * * * *

Approved, August 1, 1914. (Public, No. 160, 63d Cong.)

Opening Flathead, Coeur d'Alene, and Spokane Lands

BY THE PRESIDENT OF THE UNITED STATES.

A PROCLAMATION.

I, WILLIAM H. TAFT, President of the United States of America, by virtue of the power and authority vested in me by the Acts of Congress hereinafter named, do hereby prescribe, proclaim and make known that all the nonmineral, unreserved lands classified as agricultural lands of the first class, agricultural lands of the second class and grazing lands within the Flathead Indian Reservation in the State of Montana under the Act of Congress approved April 23, 1904 (33 Stat. L., 302), which have not been withdrawn under the Act of Congress approved June 17, 1902 (32 Stat. L., 388); all the nonmineral, unreserved lands classified as agricultural lands within the Spokane Indian Reservation in the State of Washington under the Act of Congress approved May 29, 1908 (35 Stat. L., 458); and all the nonmineral, unreserved lands classified as agricultural lands, grazing lands and timbered lands in the Coeur d'Alene Indian Reservation in the State of Idaho under the Act of Congress approved June 21, 1906 (34 Stat. L., 335), shall be disposed of under the provisions of the homestead laws of the United States and said Acts of Congress and be opened to settlement and entry in the following manner and not otherwise:

1. All persons qualified to make a homestead entry may, on and after the fifteenth day of July and prior to and including the fifth day of August, 1909, but not theretofore or thereafter, present to James W. Witten, Superintendent of the Opening, at the City of Coeur d'Alene in the State of Idaho, by ordinary mail, but not in person or by registered mail or otherwise, sealed envelopes containing their applications for registration for lands in any or all of said Reservations, but no envelope should contain more than one application and no person should present more than one application for lands in the same Reservation.

2. All applications for registration must be on forms furnished by the General Land Office, and they must show the name, postoffice address, age, height and weight of the applicant, and be sworn to by him on or after July 15, and prior to and including August 5, 1909, before some notary public designated by said Superintendent.

3. Applications for registration must be sworn to at the following places and not elsewhere. Applications for Flathead lands must be sworn to at either Kalispell or Missoula, Montana, for Spokane lands at Spokane, Washington, and for Coeur d'Alene lands at Coeur d'Alene, Idaho.

4. Persons who were honorably discharged after ninety days' service in the Army or Navy of the United States, during the War of the Rebellion, the Spanish-American War, or the Philippine Insurrection, or their widows or minor orphan children, may present their applications for registration, either in person or through their duly appointed agents, but no person can act as agent for more than one such applicant and all applications presented by agents must be signed, sworn to and presented by them at the same places and in

the same manner in which other applicants are required to present their applications.

5. Beginning at ten o'clock a. m. on August 9, 1909, at the City of Coeur d'Alene in the State of Idaho and continuing thereafter from day to day, Sundays excepted, as long as may be necessary, there shall be impartially taken and selected indiscriminately from the whole number of envelopes so presented such number thereof as may be necessary to carry into effect the provisions of this Proclamation, and the applications for registration contained in the envelopes so selected shall, when correct in form and execution, be numbered serially in the order in which they are selected, beginning with number one for the lands within each of said Reservations, and the numbers thus assigned shall fix and control the order in which the persons named therein may make entry after the lands shall become subject to entry.

6. A list of the successful applicants, showing the number assigned to each of them, will be conspicuously posted and furnished to the press for publication as a matter of news, and a proper notice will be promptly mailed to each person to whom a number is assigned.

7. Beginning at nine o'clock a. m. on April 1, 1910, and continuing thereafter on such dates as may be fixed by the Secretary of the Interior, persons holding numbers assigned to them under this Proclamation will be permitted to present their applications to enter (or file their declaratory statements in cases where they are entitled to file declaratory statements) at the land office for any land district in which their numbers entitle them to make entry, in the order in which their applications for registration were selected and numbered, but no person can present more than one application to enter or file more than one declaratory statement.

8. If any person fails to apply to enter, (or to file a declaratory statement if he is entitled to do so), on the day assigned him for that purpose, or if he presents more than one application for registration for lands within the same Reservation, or presents an application in any other than his true name, he will forfeit his right to make entry or filing under this proclamation.

9. None of the lands opened to entry under this Proclamation shall become subject to settlement or entry prior to the first day of September, 1910, except in the manner prescribed herein; and all persons are admonished not to make any settlement prior to that date on lands not covered by entries or filings made by them under this Proclamation. On September 1, 1910, all of said lands which have not then been entered under this Proclamation will become subject to settlement and entry under the general provisions of the homestead laws and the said Acts of Congress.

opened for entry Sept. 1, 1910

10. The Secretary of the Interior shall make and prescribe such rules and regulations as may be necessary and proper to carry this Proclamation and the said Acts of Congress into full force and effect.

In Witness Whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this twenty-second day of May, in the year of our Lord one thousand nine hundred and nine, and of the Independence of the United States the one hundred and thirty-third.

Proclaimed May 22, 1909

[SEAL.]

WM. H. TAFT.

By the President:
P. C. KNOX,
Secretary of State.

Regulations Opening Flathead, Coeur d'Alene, and Spokane Lands.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May, 1909.

JAMES W. WITTEN,
Superintendent of Opening and Sale of Indian Lands.

SIR: Pursuant to the Proclamation of the President issued May 22, 1909, for the opening to settlement and entry of certain lands within the Flathead Indian Reservation in the State of Montana, the Coeur d'Alene Indian Reservation in the State of Idaho and the Spokane Indian Reservation in the State of Washington, under the Acts of Congress named therein, the following rules and regulations are hereby prescribed:

1. *Applications for registration.*—Any person qualified to make a homestead entry may present application for registration for lands in any or all of said reservations, but his application must be sworn to at Coeur d'Alene, Idaho, if he registers for Coeur d'Alene lands; at either Kalispell or Missoula, Montana, if he registers for Flathead lands; and at Spokane, Washington, if he registers for Spokane lands.

2. Applications for registration and powers of attorney for the appointment of agents by soldiers or sailors, or their widows or minor orphan children, should be substantially, in words and form, like those hereto attached.

3. All envelopes in which applications for registration are to be mailed should be three and one-half inches wide and six inches long, and they must be plainly addressed to "James W. Witten, Superintendent, Coeur d'Alene, Idaho," and the name of the reservation embracing the lands which the applicant desires to enter must be plainly written or printed across the front and at the left end of the envelope. All envelopes should be securely sealed and have the requisite postage stamps attached thereto, before they are placed in the mail.

4. No envelope should contain more than one application for registration or contain any other paper than the application and agent's authority. Proof of naturalization and of military service, and other proof required (as in case of second homestead entries) will be exacted before the entry is allowed, but should not accompany the application for registration.

5. Blank forms of application for registration and addressed envelopes to be used in forwarding applications to the Superintendent will be furnished to each applicant by the Superintendent through the notaries public before whom the applicants are sworn. Blank powers of attorney to be used by soldiers or sailors, or their widows or minor orphan children, in the appointment of agents may be obtained from the Superintendent at Washington, D. C., prior to July 5, 1909, and after that date from him at Coeur d'Alene, Idaho.

6. *Method of receiving and handling applications.*—As soon as the Superintendent of the Opening receives an envelope addressed to him, with the name of any of the reservations endorsed thereon, he will (if such envelope bears no distinctive marks or words indicating the name of the person by whom it was presented) deposit it in a metal can set apart for the reception of all envelopes bearing a like endorsement. The cans used for this purpose must be so constructed as to prevent envelopes deposited therein from being removed therefrom, without detection, and they must be safely guarded by representatives of the Government, until they are publicly opened on the day when the selections authorized by the Proclamation are to be made. All envelopes which show the name of the person by whom

they were mailed will be at once opened and the applications therein will be returned to the applicants.

7. *Method of assigning numbers to applicants.*—On August 9, 1909, the cans containing the applications for registration presented by persons who desire to enter Coeur d'Alene lands will be publicly opened and all envelopes contained therein will be thoroughly mixed and distributed preparatory to the selection and numbering thereof in the manner directed by said Proclamation.

8. After selections of envelopes, and assignments of numbers have been made from the applications presented by persons desiring to enter lands within the Coeur d'Alene Indian Reservation, the cans containing applications for registration presented by persons who desire to enter lands within the Flathead Indian Reservation will be opened, and all envelopes contained therein will be thoroughly mixed and distributed, preparatory to the selection and numbering thereof in the manner directed by said Proclamation.

9. After selections of envelopes, and assignments of numbers have been made from the applications deposited by persons desiring to enter lands within the Flathead Indian Reservation, the cans containing applications for registration presented by persons who desire to enter lands within the Spokane Indian Reservation will be opened, and all envelopes contained therein will be thoroughly mixed and distributed, preparatory to the selection and numbering thereof in the manner directed by said Proclamation.

10. Numbers will not be assigned to a greater number of persons than will be reasonably necessary to induce the entry of all the lands subject to entry in each of said reservations under said Proclamation. The applications for registration presented by persons to whom numbers are not assigned will be carefully arranged and inspected, and if it is found that any person has presented more than one application for lands in the same reservation, or presented his application in any other than his true name, or in any other manner than that directed by said Proclamation, he will be denied the right to make entry under any number assigned to him.

11. When an application for registration has been selected and numbered, as prescribed by said Proclamation, the name and address of the applicant and the number assigned to him will be publicly announced, and the application will be filed in the order in which it was numbered.

12. All selected applications which are not correct in form and execution will be stamped "Rejected—Imperfectly Executed," and filed in the order in which they were rejected.

13. *Notices of numbers assigned* will be promptly mailed to all persons to whom they are assigned, and to their agents, in cases where numbers are assigned to soldiers who registered by agents, at the postoffice address given in their applications for registration, but no notice whatever will be sent to persons to whom numbers are not assigned. All persons who present applications for registration should, in their own behalf, employ such means as will insure their receiving prompt and accurate information as to the names of persons to whom numbers are assigned, by subscribing to some newspaper which will publish a list of successful applicants, or otherwise, as the notices sent by the Superintendent may possibly not be received by them.

14. *Notices of the time and place of making entry will* be mailed to such number of persons holding numbers as may be reasonably necessary to induce the entering of all the lands desirable for entry, and if any person who receives such a notice either notifies the Register and Receiver that he does not intend to make entry, or fails to make entry on the day assigned him for that purpose, the person holding

the lowest number to whom no date for entry has been assigned will be at once notified that he will be permitted to make entry on a date named in such notice, after all persons holding numbers lower than his have had opportunity to make entry.

15. *Notice of intention not to make entry.*—If any person who receives a notice of the date on which he may make entry becomes satisfied at any time that he will not make entry under the number assigned to him, he should at once inform the Register and Receiver of that fact, in order that some other person holding a higher number may be given the right to make entry.

16. *Postoffice address.*—All persons who change their postoffice addresses from the addresses given in their applications for registration should request the postmaster at their former addresses to forward their mail to their new addresses and notify the Register and Receiver of such change of address.

17. *Method of making entry.*—Persons who receive notice of their right to make entry for Coeur d'Alene lands must present their applications at the United States land office at Coeur d'Alene, Idaho; persons who receive notice of their right to make entry for Flathead lands must present their applications either at Kalispell for Flathead lands in the Kalispell district, or at Missoula for Flathead lands in the Missoula district; and persons who receive notice of their right to make entry for Spokane lands must present their applications at Spokane. Persons holding numbers which entitle them to make entry in more than one Reservation may, at their own election, make entry in any Reservation.

18. Persons holding numbers from 1 to 50, inclusive, must present their applications to make entry at the land office at which they are entitled to make entry between the hours of 9 o'clock a. m. and 4.30 p. m., on April 1, 1910, in the numerical order in which their numbers were assigned to them; the applications of persons holding numbers from 51 to 100 must be similarly presented on April 2, 1910; the applications of persons holding numbers 101 to 200 must be similarly presented on April 4, 1910; the applications of persons holding numbers 201 to 300 must be presented on April 5, 1910; and so on from day to day at the rate of 100 per day, Sundays and legal holidays excepted, until all persons who have been notified to appear and make entry have been given an opportunity to do so.

19. If any person who has been assigned a number entitling him to make entry fails to appear and present his application for entry when the number assigned him is reached, his right to enter will be passed until after all other applicants assigned for that day have been disposed of, when he will be afforded another opportunity to make entry on that day, failing in which he will be deemed to have abandoned his right to make entry prior to September 1, 1910.

If any person holding a number dies before the date on which he is required to make entry, his widow, or any one of his heirs may appear and make entry under his number on that date, but not thereafter.

20. At the time of appearing to make entry, each applicant must, by affidavit, show his qualifications to make a homestead entry. If an applicant files a soldier's declaratory statement, either in person or by agent, he must furnish evidence of his military service and honorable discharge. All foreign-born persons must furnish either the original or copies of their declaration of intention to become citizens ("first paper") or copies of the order of the court admitting them to full citizenship ("second papers"). If persons who were not born in the United States claim citizenship through their fathers' naturalization while they were under twenty-one years of age, they must furnish a

copy of the order of the court admitting their fathers to full citizenship (or their fathers' "second papers").

21. The usual nonmineral and nonsaline affidavits will not be required with applications to enter made prior to September 1, 1910, but evidence of the nonmineral and nonsaline character of the lands entered before that date must be furnished by the entrymen, before their final proofs are accepted.

22. *Proceedings on contests and rejected applications.*—When the Register and Receiver of the land office at which these lands will become subject to entry for any reason reject the application of any person claiming the right to make entry, under any number assigned to him, they will at once advise him of the rejection and of his right of appeal, and further action thereon shall be controlled by the following rules, and not otherwise:

a. Applications either to file soldier's declaratory statement or to make homestead entry of these lands must, on presentation in accordance with these regulations, be at once accepted or rejected, but the local land officers may, in their discretion, permit amendment of defective applications during the day only on which they are presented. If properly amended on the same day entry may be permitted after the numbers for the day have been exhausted, in their numerical order.

b. No appeal to the General Land Office will be allowed or considered unless taken within one day (Sundays excepted) after the rejection of the application.

c. After the rejection of an application, whether an appeal be taken or not, the land will continue to be subject to entry as before, excepting that any subsequent applicant for the same land must be informed of the prior rejected application and that his application, if allowed, will be subject to the disposition of the prior application, upon appeal if any be taken from the rejection thereof, which fact must be noted upon the receipt issued him and upon the application allowed.

d. Where an appeal is taken the papers will be immediately forwarded to the General Land Office, where they will at once be carefully examined and forwarded to the Secretary of the Interior with appropriate recommendation, when the matter will be promptly decided and closed.

e. Applications filed prior to September 1, 1910, to contest entries allowed for these lands, will also be immediately forwarded to the General Land Office, where they will be at once carefully examined and forwarded to the Secretary of the Interior, with proper recommendation, when the matter will be promptly decided.

f. These regulations will supersede, during the period between April 1, 1910, and September 1, 1910, any Rule of Practice or other regulation governing the disposition of applications with which they may be in conflict, in so far as they relate to the lands affected by these regulations. and will apply to all appeals taken from actions of local officers during that period affecting any of these lands.

23. No notary public shall be designated for the purpose of administering oaths to applicants for registration who was not appointed prior to June 1, 1909, and on that date a resident of the county in which he shall act.

Very respectfully,

FRED DENNETT,
Commissioner.

Approved May 24, 1909:
R. A. BALLINGER,
Secretary.

[1 Kapp. 854]

EXECUTIVE MANSION, November 14, 1871.

The Bitter Root Valley, above the Loo-lo Fork, in the Territory of Montana, having been carefully surveyed and examined in accordance with the eleventh article of the treaty of July 16, 1855, concluded at Hell Gate, in the Bitter Root Valley, between the United States and the Flathead, Kootenay, and Upper Pend d'Oreilles Indians, which was ratified by the Senate March 8, 1859, has proved, in the judgment of the President, not to be better adapted to the wants of the Flathead Tribe than the general reservation provided for in said treaty; it is therefore deemed unnecessary to set apart any portion of said Bitter Root Valley as a separate reservation for Indians referred to in said treaty. It is therefore ordered and directed that all Indians residing in said Bitter Root Valley be removed as soon as parcticable to the reservation provided for in the second article of said treaty, and that a just and impartial appraisement be made of any substantial improvements made by said Indians upon any lands of the Bitter Root Valley, such as fields inclosed and cultivated and houses erected; that such appraisement shall distinguish between improvements made before the date of said treaty and such as have been subsequently made.

It is further ordered that, after the removal herein directed shall have been made, the Bitter Root Valley aforesaid shall be open to settlement.

It is further ordered that if any of said Indians residing in the Bitter Root Valley desire to become citizens and reside upon the lands which they now occupy, not exceeding in quantity what is allowed under the homestead and preemption laws to all citizens, such persons shall be permitted to remain in said valley upon making known to the superintendent of Indian affairs for Montana Territory by the 1st day of January, 1873, their intention to comply with these conditions.

U. S. GRANT.

[3 Kapp. 679]

FLATHEAD RESERVATION

Whereas it is believed that the following-described land, to wit:

Lot three of section two, in township twenty-two north, of range twenty-four west, of the Montana meridian, in the State of Montana, is a natural and prospective center of population:

Now, therefore, I, William Howard Taft, President of the United States of America, by virtue of the power in me vested by the act of Congress entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," approved April 23, 1904 (33 Stats., 302), and by sections 2380 and 2381 of the Revised Statutes of the United States, do hereby declare and make known that the land above described is hereby reserved as a town site, to be disposed of by the United States under the terms of the statutes applicable thereto.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this fifteenth day of February, in the year of our Lord one thousand nine hundred and twelve, and of the independence of the United States the one hundred and thirty-sixth.

[Seal.] Wm. H. Taft

By the President:
HUNTINGTON WILSON,
Acting Secretary of State.

THE WHITE HOUSE, April 13, 1912.

It is ordered that the NE. 1/4 of the SW. 1/4 of sec. 31, T. 19 N., R. 23 W., M.P.M., in the Flathead Indian Reservation, Montana, be, and the same is hereby, withdrawn from settlement, location, sale, and entry, and reserved for examination and classification, subject to all of the provisions, limitations, exceptions, and conditions contained in the act of June 25, 1910 (36 Stat., 847).

Wm. H. Taft.

[January 14, 1913, 4 Kapp. 1026.

FLATHEAD

It is hereby ordered that the SE. 1/4 of the SW. 1/4 of section 9, township 18 north, range 21 west, Montana meridian, containing 40 acres, be, and the same is hereby, withdrawn from entry and set apart for administrative purposes in connection with the affairs of the Flathead Indians in the State of Montana: Provided, however, That this withdrawal shall not affect the valid prior rights of any persons to the lands described.

Wm. H. Taft.

THE WHITE HOUSE, Jany. 14, 1913.

[April 13, 1912, 3 Kapp. 679]

DISPOSAL OF LANDS IN THE FLATHEAD INDIAN RESERVATION, STATE OF MONTANA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION.

Whereas it is believed that the following-described land, to wit:

Lot 3 of sec. 2, in T. 22 N., R.24 W., of the Montana meridian, in the State of Montana, is a natural and prospective center of population:

Now, therefore, I, William Howard Taft, President of the United States of America, by virtue of the power in me vested by the act of Congress entitled "An act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," approved April 23, 1904 (33 Stats., 302), and by sections 2380 and 2381 of the Revised Statutes of the United States, do hereby declare and make known that the land above described is hereby reserved as a town site, to be disposed of by the United States under the terms of the statutes applicable thereto.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this fifteenth day of February, in the year of our Lord one thousand nine hundred and twelve, and of

the independence of the United States the one hundred and thirty-sixth.
[Seal]

Wm. H. Taft.

By the President:
HUNTINGTON WILSON, Acting Secretary of State.
(No. 1182)

April 13, 1912, 3 Kapp. 680]

It is ordered, That the NE. 1/4 of the SW. 1/4 of sec. 31, T. 19 N., R. 23 W., Montana principal meridian, in the Flathead Indian Reservation, Mont., be, and the same is hereby, withdrawn from settlement, location, sale, and entry, and reserved for examination and classification, subject to all of the provisions, limitations, exceptions, and conditions contained in the act of June 25, 1910 (36 Stats., 847).

Wm. H. Taft.

THE WHITE HOUSE, April 13, 1912.
(No. 1518.)

[November 23, 1932 5 Kapp. 642]

EXTENSION OF TRUST PERIOD ON INDIAN RESERVATION ALLOTMENTS

It is hereby ordered, under authority contained in section 5 of the act of February 8, 1887 (24 Stat. 388, 389), and the act of June 21, 1906 (34 Stat. 325, 326), that the period of trust covering allotments made in favor of Indians on the following-named reservations, or on other reservations not specifically named herein, which trust will expire during the calendar year 1933, be, and the same is hereby, extended for a period of 10 years from the respective dates of expiration thereof:

Round Valley Reservations, Calif.
White Earth Reservation, Minn.
—Flathead Reservation, Mont.
Santee Reservation, Nebr.
Devils Lake and Standing Rock Reservations, N. Dak.
Kiowa Reservation, Okla.
Pine Ridge Reservation, S. Dak.
Shoshone or Wind River Reservation, Wyo.

HERBERT HOOVER.

THE WHITE HOUSE, November 23, 1932.

[No. 5953]

NOTE: The Flathead Indian Tribe have accepted the provisions of the Indian Reorganization Act, 48 Stat. 984, which extend indefinitely the trust status of the Reservation lands.

[February 15, 1912, 3 Kapp. 663]

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, it is believed that the following described land, to wit:

Lot three of section two, in township twenty-two north, of range twenty-four west, of the Montana Meridian, in the State of Montana, is a natural and prospective center of population:

NOW THEREFORE, I, WILLIAM HOWARD TAFT, President of the United States of America, by virtue of the power in me vested by the Act of Congress entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment", approved April 23, 1904 (33 Stats. 302), and by sections 2380 and 2381 of the Revised Statutes of the United States, do hereby declare and make known that the land above described is hereby reserved as a townsite, to be disposed of by the United States under the terms of the Statutes applicable thereto.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this fifteenth day of February, in the year of our Lord one thousand nine hundred and [Seal] twelve, and of the independence of the United States the one hundred and thirty-sixth.

Wm H Taft

By the President:
HUNTINGTON WILSON
Acting Secretary of State.

[June 5, 1872, 17 Stat. 226]

CHAP. CCCVIII.—An Act to provide for the Removal of the Flathead and other Indians from the Bitter Root Valley, in the Territory of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the President, as soon as practicable, to remove the Flathead Indians, (whether of full or mixed bloods,) and all other Indians connected with said tribe, and recognized as members thereof, from Bitter Root valley in the Territory of Montana, to the general reservation in said Territory, (commonly known as the Jocko reservation,) which by a treaty concluded at Hell Gate, in the Bitter Root valley, July sixteenth, eighteen hundred and fifty-five, and ratified by the Senate March eighth, eighteen hundred and fifty-nine, between the United States and the confederated tribes of Flathead, Kootenai, and Pend d'Oreille Indians was set apart and reserved for the use and occupation of said confederated tribes.

Sec. 2. That as soon as practicable after the passage of this act, the surveyor-general of Montana Territory shall cause to be surveyed, as other public lands of the United States are surveyed, the lands in the Bitter Root valley lying above the Lo-Lo fork of the Bitter Root river; and said lands shall be open to settlement, and shall be sold in legal subdivisions to actual settlers only, the same being citizens of the United States, or having duly declared their intention to become such citizens, said settlers being heads of families, or over twenty-one years of age, in quantities not exceeding one hundred and sixty acres to each settler, at the price of one dollar and twenty-five cents per acre, payment to be made in cash within twenty-one months from the date of settlement, or of the passage of this act. The sixteenth and thirty-sixth sections of said lands shall be reserved for school purposes in the manner provided by law. Town-sites in said valley may be reserved and entered as provided by law: Provided, That no more than fifteen townships of the lands so surveyed shall be deemed to be subject to the provisions of this act: And provided further, That none of the lands in said valley above the Lo-Lo fork shall be open to settlement under the homestead and preemption laws of the United States. An account shall be kept by the Secretary of the Interior of the proceeds of said lands, and out of the first moneys arising therefrom there shall be reserved and set apart for the use of said Indians the sum of fifty thousand dollars, to be by the President expended, in annual instalments, in such manner as in his judgment shall be for the best good of said Indians, but no more than five thousand dollars shall be expended in any one year.

Sec. 3. That any of said Indians, being the head of a family, or twenty-one years of age, who shall, at the passage of this act, be actually residing upon and cultivating any portion of said lands, shall be permitted to remain in said valley and pre-empt without cost the land so occupied and cultivated, not exceeding in amount one hundred and sixty acres for each of such Indians, for which he shall receive a patent without power of alienation: Provided, That such Indian shall, prior to August first, eighteen hundred and seventy-two, notify the superintendent of Indian affairs for Montana Territory that he abandons his tribal relations with said tribe, and intends to remain in said valley: And provided further, That said superintendent shall have given such Indian at least one month's notice prior to the date last above mentioned of the provisions of this act and of his right so to remain as provided in this section of this act.

Sec. 4. That in case John Owen, an actual settler in said valley, above the Lo-Lo fork, shall come within the provisions of the act of Congress of September twenty-seventh, eighteen hundred and fifty, entitled "An act to create the office of surveyor-general of the public lands in Oregon, and to provide for the survey, and to make donations to settlers of the said public lands" and the acts amendatory thereof, he shall be permitted to establish such fact in the land-office in the said Territory of Montana, and, upon proof of compliance with the provisions of said act or acts, shall be permitted to obtain title, in the manner provided therein, to such quantity of land as he may be entitled to under the same. All disputes as to title to any lands mentioned in this act shall be decided according to the rules governing the decision of disputes in ordinary cases under the pre-emption laws of the United States. **Amended Act 2/11/74, 18 Stat. 15, infra this page. Act 6/22/74, 18 Stat. at p.173, post, p.89; Act 3/2/89, § 7, 25 Stat.871, post p.20.**

Approved, June 5, 1872.

[February 11, 1874, 18 Stat. 15]

CHAP. 25.—An act to amend the act entitled "An act to provide for the removal of the Flathead and other Indians from the Bitterroot Valley, in the Territory of Montana," approved June fifth, eighteen hundred and seventy-two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time of sale and payment of pre-empted lands in the Bitterroot Valley, in the Territory of Montana, is hereby extended for the period of two years from the expiration of the time allotted in the act entitled "An act to provide for the removal of the Flathead and other Indians

from the Bitterroot Valley, in the Territory of Montana," approved June fifth, eighteen hundred and seventy-two.

Sec. 2. That the benefit of the homestead act is hereby extended to all the settlers on said lands who may desire to take advantage of the same.

Approved, February 11, 1874

For Act 3/3/85, 23 Stat. 362, 363, 382, see p. 91, post, note

[March 2, 1889, 25 Stat. 871]

CHAP. 391.--An act to provide for the sale of lands patented to certain members of the Flathead band of Indians in Montana Territory, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior, with the consent of the Indians severally, to whom patents have been issued for lands assigned to them in the Bitter Root Valley, in Montana Territory, under the provisions of an act of Congress approved June fifth, eighteen hundred and seventy-two, entitle "An act to provide for the removal of the Flathead and other Indians from the Bitter Root Valley, in the Territory of Montana" or the heirs at law of such Indians, be, and he hereby is, authorized to cause to be appraised and sold, in tracts not exceeding one hundred and sixty acres, all the lands allotted and patented to said Indians; said lands shall be appraised as if in a state of nature, but the enhanced value thereof, by virtue of the settlement and improvement of the surrounding country, shall be considered in ascertaining their value: Provided, That the improvements thereon shall be appraised separate and distinct from land: Provided, further, That where any such patentee has died leaving no heirs, the lands and improvements of such deceased patentee shall be appraised and sold in like manner for the common benefit of the tribe to which said patentee belonged.

Sec. 2. That after the appraisement herein authorized shall have been completed, and after due notice, the Secretary of the Interio shall offer said lands for sale through the proper land-office, in tracts not exceeding one hundred and sixty acres, which shall be the limit of the amount any one person shall be allowed to purchase, except in cases, if any, where a tract contains a fractional excess over one hundred and sixty acres, to the highest bidder: Provided, That no portion of said lands shall be sold at less than the appraised value thereof: Provided, That the said Secretary may dispose of the same on the following terms as to payment, that is to say, one-third of the price of any tract of land sold under the provisions of this act to be paid by the purchaser on the day of sale, one third in one year, and one-third in two years from said date, with interest on the deferred

payments at the rate of five per centum per annum; but in case of default in either of said payments, or the interest thereon, the person so defaulting for a period of sixty days shall forfeit absolutely the right to the tract which he has purchased, with any payment or payments he may have made; and the land thus forfeited shall again be sold as in the first instance: Provided further, That before the second or any subsequent payment shall be received, the purchaser shall prove to the satisfaction of the land office that he is actually residing upon the tract of land so purchased, and that he is entitled under the laws of United States to the benefit of the homestead laws.

Sec. 3. That the net proceeds derived from the sale of the lands herein authorized shall be placed in the Treasury to the credit of the Indians severally entitled thereto, and the Secretary of the Interior is hereby authorized to pay the same in cash to original allotters and patentees, or the heirs at law of such, or expend the same for their benefit in such manner as he may deem for their best interest.

Sec. 4. That when a purchaser shall have made full payment for a tract of land, as herein provided, and for the improvements thereon, patent shall be issued as in case of public lands under the homestead and preemption laws

Sec. 5. That for the purpose of carrying out the provisions of this act there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of five hundred dollars, or so much thereof as may be necessary, which sum shall be reimbursed pro rata out of the proceeds of the sale of the lands herein authorized.

Sec. 6. That in the event of the sale of the lands herein authorized it shall be the duty of the Secretary of the Interior to remove the Indians whose lands shall have been sold to the general reservation, known as the Jocko Reservation, in the Territory of Montana.

Sec. 7. That all acts and parts of acts in conflict herewith are hereby repealed.

Approved, March 2, 1889.

Amended Act 7/1/98, 30 Stat. at p.596, post, p.93; Act 6/5/00, 31 Stat. at p.270, post, p.23.

[March 3, 1891, 26 Stat. 1091]

CHAP. 556.—An act granting to the Missoula and Northern Railroad Company the right of way through the Flathead Indian Reservation, in the State of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the right of way is hereby granted, as hereinafter set forth, to the Missoula and Northern Railroad Company, a corporation organized and existing under the laws of the State of Montana, for the construction, operation, and maintenance of its railroad through the lands set apart for the use of the Flathead Indians, commonly known as the Flathead Indian Reservation, said railroad line beginning at a point at or near the mouth of Jocko River, on the Northern Pacific Railroad, in the county of Missoula, State of Montana, and running thence by the most practicable route to the northern line of said State of Montana, and more particularly described, as far as extending through said Indian reservation, as beginning at or near the aforesaid mouth of Jocko River, and running thence in a northerly direction to the southerly end of Flathead Lake, and thence by the most practicable route, either to the east or west of said lake, in a northerly direction to the said northern boundary of Montana.

Sec. 2. That the right of way hereby granted to said railroad company shall be seventy-five feet in width on each side of the central line of said railroad as aforesaid, and said company shall also have the right to take from lands adjacent to the line of said road material, stone, earth, and timber necessary for the construction thereof; also ground adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, not to exceed in amount three hundred feet in width and three thousand feet in length for each station, to the extent of one station for each ten miles of said road.

Sec. 3. That it shall be the duty of the Secretary of the Interior to agree with the Flathead and Confederated tribes on the compensation to be paid them for such right of way, and the time and manner for the payment thereof, but no right of way of any kind shall vest in said railroad company in or to any part of the right of way or station grounds herein provided for until plats thereof, made upon actual survey for the definite location of such road, and including the points for station buildings, depots, machine shops, side tracks, turn-outs, and water stations, shall be filed with and approved by the Secretary of the Interior, which approval shall be made in writing and be open for the inspection of any party interested therein, and until the compensation agreed on has been paid; and the surveys, construction, and operation of such railroad shall be conducted with due regard for the rights of the Indians and in accordance with such rules and regulations as the Secretary of the Interior may make to carry out the provisions of this act: Provided, That the right of way herein granted shall be lost and forfeited by said company unless

the road is constructed and in running order through said reservation within three years from the passage of this act: Provided further, That when said railroad shall have been constructed to the south end of said Flathead Lake said company may establish a temporary terminal station on the shore of said lake, on grounds not exceeding three thousand feet square, and, pending completion of said railroad, may utilize the waters of said Flathead Lake for transportation purposes.

Sec. 4. That Congress may at any time amend, alter, or repeal this act.

Approved, March 3, 1891.

For Act 7/13/92, 27 Stat. 138-139, authorizing negotiations, see post, p. 92, note 5.

[June 10, 1896, 29 Stat. 321, 341]

CHAP. 398.--An Act Making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, and for other purposes.

The Secretary of the Interior is hereby authorized to appoint a commission to consist of three persons, not more than two of whom shall be of the same political party, and not more than one of whom shall be resident of any one State, to negotiate with the following Indians, namely: With the Crow and Flathead Indians in the State of Montana for the cession of portions of their respective reservations; with the Northern Cheyenne and Crow Indians for the removal of said Northern Cheyenne Indians from their present reservation on the Rosebud River at Lame Deer Agency to the southern portion of the Crow Reservation; with the Indians residing on the Fort Hall Indian Reservation in the State of Idaho, and with the Indians residing upon the Uintah Reservation in the State of Utah, for the surrender of any portion of their respective reservations, or for such modification of existing treaties as may be deemed desirable by said Indians and the Secretary of the Interior; and with the Yakima Indians in the State of Washington for the surrender of a portion of their reservation lands, and for such modification of existing treaties as may be deemed desirable by said Indians and the Secretary of the Interior, any agreement thus negotiated being subject to subsequent ratification by Congress; and for the expenses of such commission and

negotiations hereunder the sum of ten thousand dollars is appropriate: Provided, That the time for the completion of the canal, or any part thereof, authorized by an Act entitled "An Act granting to the Columbia Irrigation Company a right of way through the Yakima Indian Reservation, in Washington," be, and is hereby, extended two years from July twenty-fourth, eighteen hundred and ninety-six.

For Act July 1, 1898, 30 Stat. 571, 596, reappraisal of unsold tracts see p. 93, post, note 6.

[June 5, 1900, 31 Stat. 267, 270]

CHAP. 716.--An Act For the relief of the Colorado Cooperativ Colony; to permit second homesteads in certain cases, and for other purposes.

* * *

SEC. 3. That any person who prior to the passage of this Act, has made entry under the homestead laws, but from any cause has lost or forfeited the same shall be entitled to the benefits of the homestead laws as though such former entry had not been made: Provided, That persons who purchased land under and in accordance wit the terms of an Act entitled "An Act to provide for the sale of lands patented to certain members of the Flathead band of Indians in the Territory of Montana, and for other purposes," approved March second, eighteen hundred and eighty-nine, shall not be held to have impaired or exhausted their homestead rights by or on account of any such purchase.

Approved, June 5, 1900.

[April 23, 1904, 33 Stat. 302]

CHAP. 1495.--An Act For the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretar of the Interior be and he is hereby, directed to immediately cause to be surveyed all of the Flathead Indian Reservation, situated within the State of Montana, the same being particularly described and set forth in article two of a certain treaty entered into by and between Isaac H. Stevens, governor and superintendent of Indian affai for the Territory of Washington, on the part of the United States, and the chiefs, headmen, and delegates of the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille Indians, on the sixteenth day of July, eighteen hundred and fifty-five.

Sec. 2. That so soon as all of the lands embraced within said Flathead Indian Reservation shall have been surveyed, the Commissioner of Indian Affairs shall cause allotments of the same to be made to all persons having tribal rights with said confederated tribes of Flatheads, Kootenais, Upper Pend d'Oreille, and such other Indians and persons holding tribal relations as may rightfully belong on said Flathead Indian Reservation, including the Lower Pend d'Oreille or Kalispel Indians now on the reservation, under the provisions of the allotment laws of the United States.

Sec. 3. That upon the final completion of said allotments to said Indians, the President of the United States shall appoint a commission consisting of five persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians, the said persons so constituting said commission to be as follows: Two of said connissioners so named by the President shall be two persons now holding tribal relations with said Indians--the same may be designated to the President by the chiefs and headmen of said confederated tribes of Indians, two of said commissioners shall be resident citizens of the State of Montana, and one of said commissioners shall be a United States special Indian agent or Indian inspector of the Interior Department.

Sec. 4 That within thirty days after their appointment said commission shall meet at some point within the boundaries of said Flathead Indian Reservation and organize by the election of one of their number as chairman. Said commission is hereby empowered to select a clerk at a salary not to exceed seven dollars per day.

Sec. 5. That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of forty acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisement said lands shall be divided into the following clases: First, agricultural land of the first class; second, agricultural land of the second class; third, timber lands, the same to be lands more valuable for their timber than for any other purpose; fourth, mineral lands; and fifth, grazing lands. Further classification Act 6/25/10, 36 Stat. at p.863, post pp. 39-40.

Sec. 6. That said commission shall in their report of lands of the third class determine as nearly as possible the amount of standing saw timber on legal subdivisions thereof and fix a minimum price for the value thereof, and in determining the amount of merchantable timber growing thereon they shall be empowered to employ a timber cruiser, at a salary of not more than eight dollars per day while so actually employed, with such assistants as may be necessary, at a salary not to exceed six dollars per day while so actually employed. Mineral lands shall not be appraised as to value.

Sec. 7. That said commissioners, excepting said special agent and inspector of the Interior Department, shall be paid a salary of not to exceed ten dollars per day each while actually employed in the inspection and classification of said lands; such inspection and classification to be fully completed within one year from date of the organization of said commission.

Sec. 8. That when said commissionshall have completed the classification and appraisement of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the general provisions of the homestead, mineral, and town-site laws of the United States, except such of said lands as shall have been classified as timber lands, and excepting sections sixteen and thirty-six of each township, which are hereby granted to the State of Montana for school purposes. And in case either of said sections or parts thereof is lost to the said State of Montana by reason of allotments thereof to any Indian or Indians now holding the same, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized, in the tract under consideration, to locate other lands not occupied, not exceeding two sections in any one township, and such selections shall be made prior to the opening of such lands to settlement: Provided, That the United States shall pay to said Indians for the lands in said sections sixteen and thirty-six, or the lands selected in lieu thereof, the sum of one dollar and twenty-five cents per acre.

Sec. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation: Provided, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the act of March first, nineteen hundred and one, shall not be abridged: Provided further, That the price of said lands shall be the appraised value thereof, as fixed by the said commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments to be paid one, two, three, four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the same fees and commissions at the time of commutation or final entry as now provided by law where the

price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry: Provided, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and canceled: And provided, That nothing in this act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said commission, receiving credit for payments previously made. Amended Act of 5/29/1908, 35 Stat. at p.448, p.33 post; Act 5/18/16, 39 Stat. at p.139, post p.48.*

Sec. 10. That only mineral entry may be made on such of said lands as said commission shall designate and classify as mineral under the general provisions of the mining laws of the United States, and mineral entry may also be made on any of said lands whether designated by said commission as mineral lands or otherwise, such classification by said commission being only prima facie evidence of the mineral or nonmineral character of the same: Provided, That no such mineral locations shall be permitted upon any lands alloted in severalty to an Indian.

Sec. 11. That all of said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior under sealed bids to the highest bidder for cash or at public auction, as the Secretary of the Interior may determine, under such rules and regulations as he may prescribe. Rewritten by Act of 3/3/09, 35 Stat. at p.795, post p.37.

Sec. 12. That the President may reserve and except from said lands not to exceed nine hundred and sixty acres for Catholic mission schools, church, and hospital and such other eleemosynary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, and said lands to be granted in the following amounts, namely, to the Society of Jesus, six hundred and forty acres, to the Sisters of Charity of Providence, one hundred and sixty acres, and to the Ursuline Nuns, one hundred and sixty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained and occupied by said organizations for the purposes indicated. The President is also authorized to reserve lands upon the same conditions and for similar purposes for any other missionary or religious societies that may make applications therefor within one year after the passage of this Act, in such quantity as he may deem proper. The President may also reserve such of said lands as may be convenient or necessary for the occupation and maintenance of any and all agency buildings, substations, mills, and other governmental

* See also Act 4/30/08, 35 Stat. at pp.83-84, post, p.95; Act 3/3/09, 35 Stat. at p.795, post p.95; Act 8/24/12, 37 Stat. at p.526,

institutions now in use on said reservation or which may be used or occupied by the Government of the United States. Amended and rewritten Act 3/3/05, 33 Stat. at p.1080, post p.28.

Sec. 13. That all of said lands classified as agricultural lands of the first class and agricultural lands of the second class and grazing lands that shall be opened to settlement under this Act remaining undisposed of at the expiration of five years from the taking effect of this Act shall be sold and disposed of to the highest bidder for cash, under rules and regulations to be prescribed by the Secretary of the Interior, at not less than their appraised value, and in tracts not to exceed six hundred and forty acres to any one person.

Sec. 14. That the proceeds received from the sale of said lands in conformity with this Act shall be paid into the Treasury of the United States, and after deducting the expenses of the commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the lands, shall be expended or paid, as follows: One-half shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of the said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Kalispel thereon at the time that this Act shall take effect, in the construction of irrigation ditches, the purchase of stock cattle, farming implements, or other necessary articles to aid the Indians in farming and stock raising, and in the education and civilization of said Indians, and the remaining half to be paid to the said Indians and such persons having tribal rights on the reservation, including the Lower Pend d'Oreille or Kalispel thereon at the date of the proclamation provided for in section nine hereof, or expended on their account, as they may elect. Amended and rewritten Act 5/29/08, 35 Stat.448, post p.35. Proceeds, see amendments noted § 9 ante.

Sec. 15. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, to pay for the lands granted to the State of Montana and for lands reserved for agency, school, and mission purposes, as provided in sections eight and twelve of this Act, at the rate of one dollar and twenty-five cents per acre; also the sum of seventy-five thousand dollars, or so much thereof as may be necessary, the same to be reimbursable out of the funds arising from the sale of said lands to enable the Secretary of the Interior to survey the lands of said reservation as provided in section one of this Act.

Sec. 16. That nothing in this Act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six, or the equivalent, in each township, and the reserved tracts mentioned in section twelve, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of said lands and to expend and pay over the proceeds received from the sale thereof only as received. Amended by addition of §§17-20, Act of 6/21/06, 34 Stat. at p.354, p.30 post. Addition of §§ 21-22, Act 3/3/09, 35 Stat.795, Approved, April 23, 1904. post p.36. Addition of §§ 23-25, Act 4/12/10, 36 Stat.296, post p.38. Addition of Sec. 26, Act 2/28/19, 40 Stat.1203.

[March 3, 1905, 33 Stat. 1048, 1080]

CHAP. 1479—An Act Making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and six, and for other purposes.

* * * *

Sec. 9. That section twelve, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled, "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended so as to read as follows:

"Sec. 12. That the President may reserve and except from said lands, not to exceed one thousand two hundred and eighty acres, for Catholic mission schools, church, and hospital and such other eleemosynary institutions as may now be maintained by the Catholic Church on said reservation, which lands are hereby granted to those religious organizations of the Catholic Church now occupying the same, known as the Society of Jesus, the Sisters of Charity of Providence, and the Ursuline Nuns, the said lands to be granted in the following amounts, namely: To the Society of Jesus, six hundred and forty acres; to the Sisters of Charity of Providence, three hundred and twenty acres, and to the Ursuline Nuns, three hundred and twenty acres, such lands to be reserved and granted for the uses indicated only so long as the same are maintained, used, and occupied by said organizations for the purposes indicated, except that forty acres of the six hundred and forty acres hereinbefore mentioned as granted to the Society of Jesus are hereby granted in fee simple to said Society of Jesus, its successors and assigns: And be it further provided, That the President shall further reserve and except from said lands for the use of the University of Montana for biological station purposes one hundred and sixty acres, which land is hereby granted to the State of Montana for the use of the University of Montana. The governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to locate said last-mentioned lands.

"The President is also authorized to reserve lands upon the same conditions and for similar purposes for any other missionary or religious societies that may make application therefor within one year after the passage of this Act in such quantity as he may deem proper. The President may also reserve such of said lands as may be convenient or necessary for the occupation and maintenance of any and all agency buildings, substations, mills, and other governmental

institutions now in use on said reservation, or which may be used or occupied by the Government of the United States."

The President is also hereby authorized to reserve not to exceed five thousand acres of timber lands for the use of said Indians as a fuel supply, under such restrictions and regulations as may be prescribed by the Secretary of the Interior.

[May 31, 1906, 34 Stat. 205]

CHAP 2567.—An Act Making appropriations to supply additional urgent deficiencies in appropriations for the fiscal year nineteen hundred and six, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to transfer to the credit of the appropriation "Fees of witnesses, United States courts, nineteen hundred and six," sixty thousand dollars of the unexpended balance of the appropriation "Fees of witnesses, United States courts, nineteen hundred and five," and to the credit of the appropriation "Fees of jurors, United States courts, nineteen hundred and six," thirty thousand dollars of the unexpended balance of the appropriation "Fees of jurors, United States courts, nineteen hundred and five."

To meet the expenses of opening to entry and settlement during the fiscal years nineteen hundred and six and nineteen hundred and seve the ceded lands of the Flathead Indian Reservation in the State of Montana, under Act of April twenty-third, nineteen hundred and four; the Crow Indian Reservation in the State of Montana, under Act of April twenty-seventh, nineteen hundred and four; the Yakima Indian Reservation in the State of Washington, under Act of December twenty-first, nineteen hundred and four; the Shoshone Indian Reservation in the State of Wyoming, under Act of March third, nineteen hundred and five, and such other Indian reservations that may be open to entry and settlement during the fiscal year nineteen hundred and seven, the sum of twenty-five thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated, to continue available during the fiscal year nineteen hundred and seven: Provided, That the expenses pertaining to the opening of each of said reservations and paid for out of this appropriation shall be reimbursed to the United States from the money received from the sale of the lands embraced in said reservations, respectively Provided further, That clerks detailed to assist in the opening of said reservations, while on such duty, shall be allowed per diem in lieu of subsistence, at a rate not exceeding three dollars per day each, and actual necessary expenses for trans-

portation, including necessary sleeping-car fares.

Approved, May 31, 1906.

[June 21, 1906, 34 Stat. 325, 354]

CHAP 3504.—An Act Making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and seven.

* * * *

FLATHEAD RESERVATION

That the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section nine of the Act of March third, nineteen hundred and five (Thirty-third Statutes at Large, page one thousand and forty-eight), be amended by adding the following sections:

"Sec. 17. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside for town-site purposes, and to survey, lay out, and plat into town lots, streets, alleys, and parks not less than forty acres of said land at or near each of the present settlements of Arlee, Dayton, Ravalli, Dixon, and Ronan, and not less than eighty acres at the present settlements of Saint Ignatius and Polson, and at such other places as the Secretary of the Interior may deem necessary or convenient for town sites, in such manner as will best subserve the present needs and the reasonable prospective growth of said settlements.

"Such town sites shall be surveyed, appraised, and disposed of as provided in section twenty-three hundred and eighty-one of the United States Revised Statutes: Provided, That any person who, at the date when the appraisers commence their work upon the land, shall be an actual resident upon any one such lot and the owner of substantial and permanent improvements thereon, and who shall maintain his or her residence and improvements on such lot to the date of his or her application to enter, shall be entitled to enter, at any time prior to the day fixed for thepublic sale and at the appraised value thereof, such lot and any one additional lot of which he or she may also be in possession and upon which he or she may have substantial

and permanent improvements: Provided further, That before making entry of any such lot or lots the applicant shall make proof, to the satisfaction of the register and receiver of the land district in which the land lies, of such residence, possession, and ownership of improvements, under such regulations as to time, notice, manner, and character of proof as may be prescribed by the Commissioner of the General Land Office, with the approval of the Secretary of the Interior: Provided further, That in making their appraisal of the lots so surveyed, it shall be the duty of the appraisers to ascertain the names of the residents upon and occupants of any such lots, the character and extent of the improvements thereon, and the name of the reputed owner thereof, and to report their findings in connection with their report of appraisal, which report of findings shall be taken as prima facie evidence of the facts therein set out. All such lots not so entered prior to the day fixed for the public sale shall be offered at public outcry in their regular order, with the other unimproved and unoccupied lots. That no lot shall be sold for less than ten dollars: And provided further, That said lots, when surveyed, shall approximate fifty by one hundred and fifty feet in size.

"Sec. 18. That the Secretary of the Interior is hereby authorized and directed to reserve and set aside one hundred and sixty acres of land at and surrounding the present hot springs, situated on said reservation near the settlement of Camas.

"That said hot springs and the said one hundred and sixty acres of land last mentioned shall be under the control and direction of the Secretary of the Interior, under such rules and regulations as he may prescribe, but any and all moneys that shall be derived from such use shall be for the benefit of the persons holding tribal relations with said tribes of Indians, the same to be disbursed as provided in section thirteen of this Act.

"Sec. 19. That nothing in this Act shall be construed to deprive any of said Indians, or said persons or corporations to whom the use of land is granted by the Act, of the use of water appropriated and used by them for the necessary irrigation of their lands or for domestic use or any ditches, dams, flumes, reservoirs constructed and used by them in the appropriation and use of said water.

"Sec. 20. That there is hereby appropriated, for the survey, appraisement, and sale of said town sites, out of any money in the Treasury not otherwise appropriated, the sum of fifteen thousand dollars, or so much thereof as may be necessary, the same to be reimbursable out of the funds arising from the sale of said lands:

Provided, That the persons employed or detailed under this appropriation shall be allowed therefrom while on duty a per diem in lieu of subsistence, at a rate to be fixed by the Secretary of the Interior, not exceeding three dollars per day each, and actual necessary expenses for transportation, including necessary sleeping-car fares."

For Act 3/1/07, 34 Stat. 1015, 1034, appraisal of lands, see p. 95, post, note 7; for Act 4/30/08, 35 Stat. 70, 83-4, irrigation plans, see p. 95, post, note 8.

[May 28, 1908, 35 Stat. 251, 267]

CHAP. 192.--An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine.

* * *

NATIONAL BISON RANGE: The President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, not to exceed twelve thousand eight hundred acres of said lands, near the confluence of the Pend d'Oreille and Jocko rivers, for a permanent national bison range for the herd of bison to be presented by the American Bison Society. And there is hereby appropriated the sum of thirty thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to pay the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille, and such other Indians and persons holding tribal relations or may rightfully belong on said Flathead Indian Reservation, the appraised value of said lands as shall be fixed and determined under the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment." And the Secretary of Agriculture is hereby authorized and directed to inclose said lands with a good and substantial fence and to erect thereon the necessary sheds and buildings for the proper care and maintenance of the said bison; and there is hereby appropriated therefor the sum of ten thousand dollars or so much thereof as may be necessary; in all, forty thousand dollars.

[May 29, 1908, 35 Stat. 444, 448]

CHAP. 216.--An Act To authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes.

* * * *

Sec. 15. That section nine, chapter fourteen hundred and ninety-five, Statutes of the United States of America, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be, and the same is hereby, amended to read as follows:

"Sec. 9. That said lands shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the time when and the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation: Provided, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars, as defined and prescribed in section twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: Provided further, That the price of said lands shall be the appraised value thereof, as fixed by the said Commission, but settlers under the homestead law who shall reside upon and cultivate the land entered in good faith for the period required by existing law shall pay one-third of the appraised value in cash at the time of entry, and the remainder in five equal annual installments, to be paid one, two, three, four, and five years, respectively, from and after the date of entry, and shall be entitled to a patent for the lands so entered upon the payment to the local land officers of said five annual payments, and in addition thereto the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre, and no other and further charge of any kind whatsoever shall be required of such settler to entitle him to a patent for the land covered by his entry: Provided, That if any entryman fails to make such payments, or any of them, within the time stated, all rights in and to the land covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be forfeited and conceled: And provided, That nothing in this Act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed by said Commission, receiving credit for payments previously made: Provided, however, That the entryman or owner of any land irrigable by any system hereunder constructed under the provisions of section fourteen of this Act shall in addition to the payment required by section nine of said Act be required to pay for a water right the proportionate cost of the construction of said system in not more than fifteen

annual installments, as fixed by the Secretary of the Interior, the same to be paid at the local land office, and the register and receiver shall be allowed the usual commissions on all moneys paid.

"The entryman of lands to be irrigated by said system shall in addition to compliance with the homestead laws reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay the charges apportioned against such tract. No right to the use of water shall be disposed of for a tract exceeding one hundred and sixty acres to any one person, and the Secretary of the Interior may limit the areas to be entered at not less than forty nor more than one hundred and sixty acres each.

"A failure to make any two payments when due shall render the entry and water-right application subject to cancellation, with the forfeiture of all rights under this Act, as well as of any moneys paid thereon. The funds arising hereunder shall be paid into the Treasury of the United States and be added to the proceeds derived from the sale of the lands. No right to the use of water for lands in private ownership shall be sold to any landowner unless he be an actual bona fide resident on such land or occupant thereof residing in the neighborhood of such land, and no such right shall permanently attach until all payments therefor are made.

"All applicants for water rights under the systems constructed in pursuance of this Act shall be required to pay such annual charges for operation and maintenance as shall be fixed by the Secretary of the Interior, and the failure to pay such charges when due shall render the water-right application and the entry subject to cancellation, with the forfeiture of all rights under this Act as well as of any moneys already paid thereon.

"The Secretary of the Interior is hereby authorized to fix the time for the beginning of such payments and to provide such rules and regulations in regard thereto as he may deem proper. Upon the cancellation of any entry or water-right application, as herein provided, such lands or water rights may be disposed of under the terms of this Act and at such price and on such conditions as the Secretary of the Interior may determine, but not less than the cost originally fixed.

"The land irrigable under the systems herein provided, which has been alloted to Indians in severalty, shall be deemed to have a right to so much water as may be required to irrigate such lands without cost to the Indians for cnnstruction of such irrigation systems. The purchaser of any Indian allotment, purchased prior to the expiration of the trust period thereon, shall be exempt from any and all charge for construction of the irrigation system incurred up to the time of such purchase. All lands alloted to Indians shall

bear their pro rata share of the cost of the operation and maintenance of the system under which they lie.

"When the payments required by this Act have been made for the major part of the unallotted lands irrigable under any system and subject to charges for construction thereof, the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior.

"The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect." Limited Act 5/18/16, 39 Stat. at p.139, post p.46.

That section fourteen of said Act be, and the same is hereby, amended to read as follows:

"Sec. 14. That the proceeds received from the sale of said lands in conformity with this Act shall be paid into the Treasury of the United States, and after deducting the expenses of the Commission, of classification and sale of lands, and such other incidental expenses as shall have been necessarily incurred, and expenses of the survey of the land, shall be expended or paid, as follows: So much thereof as the Secretary of the Interior may deem advisable in the construction of irrigation systems for the irrigation of the irrigable lands embraced within the limits of said reservation; one half of the money remaining after the construction of said irrigation systems to be expended by the Secretary of the Interior as he may deem advisable for the benefit of said Indians in the purchase of live stock, farming implements, or the necessary articles to aid said Indians in farming and stock raising and in the education and civilization of said Indians, and the remaining half of said money to be paid to said Indians and persons holding tribal rights on said reservation, semiannually as the same shall become available, share and share alike: Provided, That the Secretary of the Interior may withhold from any Indian a sufficient amount of his pro rata share to pay any charge assessed against land held in trust for him for operation and maintenance of irrigation system."

For Act of 3/3/09, 35 Stat. 781, 795, disposal of irrigable lands, see p. 95, post, note 9.

[March 3, 1909, 35 Stat. 781, 795]

CHAP. 263.--An Act Making appropriations for the current and contingent expenses of the Indian Department for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and ten.

* * *

For construction of irrigation systems to irrigate the alloted lands of the Indians of the Flathead Reservation in Montana and the unallotted irrigable lands to be disposed of under the Act of April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," including the necessary surveys, plans, and estimates, two hundred and fifty thousand dollars, one hundred thousand dollars thereof to be immediately available, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands and timber within said reservation.

That the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by the Act of June twenty-first, nineteen hundred and six, and the Act of May twenty-ninth, nineteen hundred and eight, be amended by adding thereto the following sections:

"Sec. 21. That the lands allotted, those retained or reserved, and the surplus lands sold or otherwise disposed of 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 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.

"Sec. 22. That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to reserve from location, entry, sale, or other appropriation all lands within said Flathead Indian Reservation chiefly valuable for power sites, or reservoir sites, and he shall report to Congress such reservations."

That section eleven of the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," be amended to read as follows:

"Sec. 11. That all merchantable timber on said lands returned and classified by said commission as timber lands shall be sold and disposed of by the Secretary of the Interior, for cash, under sealed bids or at public auction, as the Secretary of the Interior may determine, and under such regulations as he may prescribe: Provided, That after the sale and removal of the timber such of said lands as are valuable for agricultural purposes shall be sold and disposed of by the Secretary of the Interior in such manner and under such regulations as he may prescribe."

[March 4, 1909, 35 Stat. 1039, 1051]

CHAP. 301.—An Act Making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and ten.

* * * *

For the maintenance of the Montana National Bison Range and other reservations for mammals and birds, seven thousand dollars; and so much of the forty thousand dollars heretofore appropriated for the Montana National Bison Range as remains unexpended is hereby reappropriated, the same to be immediately available, to be expended in fencing said lands, the erection thereon of the necessary sheds and buildings, and enlarging the limits heretofore established so as to make the total acreage not to exceed twenty thousand acres, and the President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, a sufficient area to enlarge said range as herein provided;

[April 12, 1910, 36 Stat. 296]

CHAP. 156.—An Act To amend the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," and all amendments thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey

and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana," and all amendments thereto, be amended by adding thereto the following sections:

"Sec. 23. That the Secretary of the Interior be, and he is hereby, authorized to cause to be surveyed and subdivided into lots of not less than two acres or more than five acres in area all of the unallotted lands fronting on Flathead Lake in the State of Montana, that are embraced within the limits of the Flathead Indian Reservation, whether classified as grazing, agricultural, or timber lands, and may sell same to the highest bidder at public sale subject to the right to reject any and all bids. The proceeds from the sale of said lands, after deducting the expense of the survey and sale thereof, shall be paid into the Treasury and expended as heretofore provided in section fourteen as amended by the Act of May twenty-ninth, nineteen hundred and eight.

"Sec. 24. That where allotments of lands have been made in severalty to said Indians from the lands embraced within the area of said Flathead Indian Reservation, which are or may be irrigable lands, the Secretary of the Interior may, upon application of the Indian allottee, sell and dispose of not to exceed sixty acres of such individual allotment of land under such terms and conditions of sale as the Secretary of the Interior may prescribe, one-half of the proceeds of the sale of said individual allotment to be paid to the Indian allottee and the remaining half of the proceeds of sale to be held in trust for the said Indian allottee, upon which he shall be paid annually not less than three per centum interest, the remaining principal sum to be paid to said allottee or his heirs when the full period of his trust patent for the remaining lands covered by his allotment shall have expired, or sooner, should the Secretary of the Interior, in his judgment, deem it best for said Indian allottee.

"Sec. 25. That the Secretary of the Interior is hereby authorized to set aside and reserve so much of the surplus unallotted and otherwise unreserved lands of the Flathead Indian Reservation as may be necessary to provide an allotment to each Indian having an allotment on any of the lands set aside and reserved for power or reservoir sites, as authorized by section twenty-two of the Act of March third, nineteen hundred and nine (Thirty-fifth Statutes at Large, page seven hundred and ninety-six), who may relinquish his allotment within such power or reservoir sites.

"And in the event of the failure, neglect, or refusal of any such allottee to relinquish any allotment made to him on any land reserved or necessary for reservoir sites, as aforesaid, the Secretary of the Interior is authorized to bring action under the provision of the laws of the State of Montana to condemn and acquire

title to any and all lands necessary or useful for said reservoir sites that have heretofore been allotted on said Flathead Indian Reservation lands."

Approved, April 12, 1910.

[June 23, 1910, 36 Stat. 592] **Extended to Flathead Irr. Project Act 7/17/14, 38 Stat.510, post pp.43-44.**

CHAP. 357.—An Act Providing that entrymen for homesteads within reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the filing with the Commissioner of the General Land Office of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the Act of June seventeenth, nineteen hundred and two,* may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said Act of June seventeenth, nineteen hundred and two, may receive from the United States a patent for the lands: Provided, That all assignments made under the provisions of this act shall be subject to the limitations, charges, terms and conditions of the reclamation Act. * **Established the Reclamation Fund.**

Approved, June 23, 1910.

[June 25, 1910, 36 Stat. 855, 863]

CHAP. 431.—An Act To provide for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians for the leasing of allotments, and for other purposes.

* * * *

Sec. 29. That the Secretary of the Interior be, and he is hereby, authorized to classify and appraise, under such rules and regulations as he may prescribe, all of the vacant, unallotted, and unreserved lands of the Flathead Indian Reservation, in the

State of Montana, which have not been classified and appraised as provided for by the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment," and the classification and appraisement made hereunder shall be of the same effect as provided for in said Act; and the said Secretary is hereby authorized to dispose of all lands classified as "barren," "burned over," and "containing small timber," under such rules and regulations as he may prescribe, at not less than their appraised value.

[March 3, 1911, 36 Stat. 1058, 1066]

CHAP. 210.—An Act Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and twelve.

* * * *

In the issuance of patents for all tracts of land bordering upon Flathead Lake, Montana, it shall be incorporated in the patent that "this conveyance is subject to an easement of one hundred linear feet back from a contour of elevation nine feet above the high-water mark of the year nineteen hundred and nine of Flathead Lake, to remain in the Government for purposes connected with the development of water power." **Amended Act 8/24/12, 37 Stat. at p.27, post p.43.**

[June 6, 1912, 37 Stat. 125]

CHAP. 155. —An Act Authorizing the Secretary of the Interior to classify and appraise unallotted Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands within any Indian reservation opened to settlement and entry but not classified and appraised in the manner provided for in the Act or Acts opening such reservations to settlement and entry, or where the existing classification or appraisement is, in the opinion of the Secretary of the Interior, erroneous.

Approved, June 6, 1912.

[August 9, 1912, 37 Stat. 265] Extended to Flathead Irr. Project, Act 7/17/14, 38 Stat.510, post pp.43-44.

CHAP. 278.—An Act Providing for patents on reclamation entries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any homestead entryman under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, including entrymen on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryman to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymen: Provided, That no such patent or certificate shall issue until all sums due the United States on account of such land or water right at the time of issuance of patent or certificate have been paid.

Sec. 2. That every patent and water-right certificate issued under this Act shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with eight per centum interest and cost. And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: Provided, That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs.

Sec. 3. That upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certificate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance: Provided, That no person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water right application shall have been made under the said reclamation Act of June seventeenth, nineteen hundred and two, and Acts supplementary thereto and amendatory thereof, before final payment in full of all instalments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction; and this proviso shall be recited in every patent and water-right certificate issued by the United States under the provisions of this Act.

Sec. 4. That the Secretary of the Interior is hereby authorized to designate such bonded fiscal agents or officers of the Reclamation Service as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation Act; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees, which copies shall be admissible in evidence, as are copies authenticated under section eight hundred and eighty-eight of the Revised Statutes.

Sec. 5. That jurisdiction of suits by the United States for the enforcement of the provisions of this Act is hereby conferred on the United States district courts of the districts in which the lands are situated.

Approved, August 9, 1912.

[August 24, 1912, 37 Stat. 518, 526, 527]

CHAP. 388.—An Act Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and thirteen.

* * *

There is hereby appropriated the sum of forty thousand dollars, to remain available until expended, and the Secretary of the Interior is hereby authorized and empowered to use said money, or so much thereof as may be necessary, in the erection of buildings for agency purposes on the Flathead Indian Reservation in Montana; for the purchase of lands therein for an agency site not to exceed eighty acres if such is deemed by the Secretary of the Interior to be necessary for the proper location of such agency; for the expenses of the removal of the agency to the new site selected; and for the protection and repair of any other buildings required for the efficient conduct of the affairs of the Flathead Indians in Montana: Provided, That the entire sum expended hereunder for the purposes herein mentioned shall be reimbursed the United States from the proceeds arising from the sale of lands and timber within the Flathead Indian Reservation.

* * *

That so much of the Act of Congress approved March third, nineteen hundred and eleven (Thirty-sixth Statutes at Large, page one thousand and sixty-six), which provides for the reservation of an easement over tracts of land bordering Flathead Lake, Montana, be, and the same hereby is, amended to read as follows: "That an easement in, to, and over all lands bordering on or adjacent to Flathead Lake, Montana, which lie below an elevation of nine feet above the high-water mark of said lake for the year nineteen hundred and nine, is hereby reserved for uses and purposes connected with storage for irrigation or development of water power, and all patents hereafter issued for any such lands shall recite such reservation."

[July 17, 1914, 38 Stat. 510]

CHAP. 143.—An Act To extend the provisions of the Act of June twenty-third, nineteen hundred and ten (Thirty-sixth Statutes at Large, page five hundred and ninety-two), authorizing assignment of reclamation homestead entries, and of the Act of August ninth, nineteen hundred and twelve (Thirty-seventh Statutes at Large, page two hundred and sixty-five), authorizing the issuance of patents on reclamation homestead entries, to lands in the Flathead irrigation project, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the Act of June twenty-third, nineteen hundred and ten (Thirty-sixth Statutes at Large, page five hundred and ninety-two), authorizing the assignment under certain conditions of homesteads within reclamation projects and of the Act of August ninth, nineteen hundred and twelve (Thirty-seventh Statutes at Large, page two hundred and sixty-five), authorizing under certain conditions the issuance of patents on reclamation entries, and for other purposes, be, and the same are hereby, extended and made applicable to lands within the Flathead irrigation project, in the former Flathead Indian Reservation, Montana, but such lands shall otherwise be subject to the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), as amended by the Act of Congress approved May twenty-ninth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page four hundred and forty-eight): Provided, That the lien reserved to the United States on the land patented, as provided for in section two of said Act of August ninth, nineteen hundred and twelve, shall include all sums due or to become due to the United States on account of the Indian price of such lands.

Approved, July 17, 1914.

[August 1, 1914, 38 Stat. 582]

Chap. 222.—An Act Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and fifteen.

* * *

For the construction, repair, and maintenance of ditches, reservoirs, and dams, purchase and use of irrigation tools and appliances, water rights, ditches, lands necessary for canals, pipe lines, and reservoirs for Indian reservations and allotments, and for drainage and protection of irrigable lands from damage by floods, or loss of water rights, including expenses of necessary surveys and investigations to determine the feasibility and estimated cost of new projects and power and reservoir sites on Indian reservations in accordance with the provisions of section thirteen of the Act of June twenty-fifth, nineteen hundred and ten, $335,000, to remain available until expended: Provided, That no part of this appropriation shall be expended on any irrigation system or reclamation project for which specific appropriation is made in this Act or for which public funds are or may be available under any other Act of Congress; for pay of one chief inspector of irrigation, who shall be a skilled irrigation engineer, $4,000; one assistant inspector of irrigation, who shall be

a skilled irrigation engineer, $2,500; for traveling and incidental expenses of two inspectors of irrigation, including sleeping-car fare and a per diem of $3 in lieu of subsistence when actually employed on duty in the field and away from designated headquarters, $4,200; in all, $345,700: Provided also, That not to exceed seven superintendents of irrigation, six of whom shall be skilled irrigation engineers and one competent to pass upon water rights, and one field-cost accountant, may be employed: Provided further, That the proceeds of sales of material utilized for temporary work and structures shall be covered into the appropriation made therefor and be available for the purpose of the appropriation; and for lands irrigable under any such system or project the Secretary of the Interior may fix maintenance charges which shall be paid as he may direct, such payments to be available for use in maintaining the project or system for which collected: Provided further, That all moneys expended heretofore or hereafter under this provision shall be reimbursable where the Indians have adequate funds to repay the Government, such reimbursements to be made under such rules and regulations as the Secretary of the Interior may prescribe: Provided further, That the Secretary of the Interior is hereby authorized and directed to apportion the cost of any irrigation project constructed for Indians and made reimbursable out of tribal funds of said Indians in accordance with the benefits received by each individual Indian so far as practicable from said irrigation project, said cost to be apportioned against such individual Indian under such rules, regulations, and conditions as the Secretary of the Interior may prescribe, and annually thereafter the Secretary of the Interior shall transmit to Congress a cost account in detail of all moneys, from whatever source derived, expended on each such irrigation project for the preceding fiscal year, including a resume of previous expenditures, which shall show the number of Indians on the reservation where the land is irrigated, irrigable area under ditch, irrigable area under project (approximate), irrigable area cultivated by Indians, irrigable area cultivated by lessees, amount expended on construction to June thirtieth of the preceding fiscal year, amount necessary to complete, and cost per acre when completed (estimated); value of land when irrigated, and such other detailed information as may be requisite for a thorough understanding of the conditions on each system or project: Provided further, That in addition to what is herein required there shall be submitted to Congress on the first Monday in December, nineteen hundred and fourteen, as to the Uintah, Shoshone, Flathead, Blackfeet, and Fort Peck Reclamation projects, a report showing the status of the water rights of the Indians and the method of financing said projects, together with such other information as the Secretary of the Interior may deem necessary for a full and complete understanding of all the facts and conditions in connection therewith

[March 4, 1915, 38 Stat. 1188, 1189]

CHAP. 161.--An Act To authorize the laying out and opening of public roads on the Winnebago, Omaha, Ponca, and Santee Sioux Indian Reservations in Nebraska and on Indian Reservations in Montana.

* * *

SEC. 2. That the legal authorities charged with the duty of laying out and opening public roads and highways under the laws of the State of Montana, having jurisdiction over any territory embraced within any Indian reservation in Montana, are hereby authorized and empowered to lay out and open public roads within any of the said Indian reservations in conformity to and in accordance with the laws of the State of Montana relating to the laying out and opening of public roads, and that any public road when so laid out and opened shall be deemed a legal road: Provided, That such road authorities shall, in addition to notifying the landowners as provided in the State laws, likewise serve notice upon the superintendent in charge of the restricted Indian lands upon which it is proposed to lay out a public road, and shall also furnish him with a map drawn on tracing linen showing the definite location and width of such proposed road, and no such road shall be laid out until after it has received the approval of such superintendent.

Approved, March 4, 1915.

[May 18, 1916, 39 Stat. 123, 139]

CHAP. 125.—An Act Making appropriations for the current and contingent expenses of the Bureau of Indians Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and seventeen.

* * *

For the purchase of a strip of land containing sixteen acres, more or less, laying between the Flathead River and the Flathead Indian Agency reserve, Montana, for an addition to said reserve, $320, and said amount shall be reimbursed to the United States from the proceeds arising from the sale of lands and timber within the Flathead Indian Reservation.

That lands on the Flathead Indian Reservation in Montana valuable for agricultural or horticultural purposes, heretofore classified as timber lands, may, in the discretion of the Secretary of the Interior, be appraised and opened to homestead entry under regulations prescribed by him, upon condition that homestead entrymen shall at the time of making their original homestead entries pay the full value of the timber found on the land at the time that the appraisement of the land itself is made, such payment to be in addition to the appraised price of the lands apart from the timber.

For continuing construction of the irrigation systems on the Flathead Indian Reservation, in Montana, $750,000 (reimbursable), which shall be immediately available and remain available until expended: Provided, That the payments for the proportionate cost of the construction of said systems required of settlers on the surplus unallotted land by section nine, chapter fourteen hundred ninety-five, Statutes of the United States of America, entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation in the State of Montana, and the sale and disposal of all surplus lands after allotment," as amended by section fifteen of the Act of May twenty-ninth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page four hundred and forty-eight), shall be made as herein provided: Provided further, That nothing contained in the Act of May twenty-ninth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page four hundred and forty-four), shall be construed to exempt the purchaser of any Indian allotment purchased prior to the expiration of the trust period thereon from any charge for construction of the irrigation system incurred up to the time of such purchase, except such charges as shall have accrued and become due in accordance with

the public notices herein provided for, or to relieve the owners of any or all land allotted to Indians in severalty from payment of the charges herein required to be made against said land on account of construction of the irrigation systems; and in carrying out the provisions of said section the exemption therein authorized from charges incurred against allotments purchased prior to the expiration of the trust period thereon shall be the amount of the charges or installments thereof due under public notice herein provided for up to the time of such purchase.

* * *

The work to be done with the amounts herein appropriated for the completion of the Blackfeet, Flathead, and Fort Peck projects may be done by the Reclamation Service on plans and estimates furnished by that service and approved by the Commissioner of Indian Affairs: Provided, That not to exceed $15,000 of applicable appropriations made for the Flathead, Blackfeet, and Fort Peck irrigation projects shall be available for the maintenance, repair, and operation of motor-propelled and horse-drawn passenger-carrying vehicles for official use upon the aforesaid irrigation projects: Provided further, That not to exceed $7,500 may be used for the purchase of horse-drawn passenger-carrying vehicles, and that not to exceed $1,500 may be used for the purchase of motor-propelled passenger-carrying vehicles.

That the Secretary of the Interior be, and he is hereby, authorized and directed to announce, at such time as in his opinion seems proper, the charge for construction of irrigation systems on the Blackfeet, Flathead, and Fort Peck Indian Reservation in Montana, which shall be made against each acre of land irrigable by the systems on each of said reservations. Such charges shall be assessed against the land irrigable by the systems on each said reservation in the proportion of the total construction cost which each acre of such land bears to the whole area of irrigable land thereunder.

On the first day of December after the announcement by the Secretary of the Interior of the construction charge the allottee, entryman, purchaser, or owner of such irrigable land which might have been furnished water for irrigation during the whole of the preceding irrigation season, from ditches actually constructed, shall pay to the superintendent of the reservation where the land is located, for deposit to the credit of the United States as a reimbursement of the appropriations made or to be made for construction of said irrigation systems, five per centum of the construction charge fixed for his land, as an initial installment, and shall pay the balance of the charge in fifteen annual installments, the first five of which shall each be five per centum of the construction charge and the

remainder shall each be seven per centum of the construction charge. The first of the annual installments shall become due and payable on December first of the fifth calendar year after the initial installment: Provided, That any allottee, entryman, purchaser, or owner may, if he so elects, pay the whole or any part of the construction charges within any shorter period: Provided further, That the Secretary of the Interior may, in his discretion, grant such extension of the time for payments herein required from Indian allottees or their heirs as he may determine proper and necessary, so long as such land remains in Indian title.

That the tribal funds heretofore covered into the Treasury of the United States in partial reimbursement of appropriations made for constructing irrigation systems on said reservations shall be placed to the credit of the tribe and be available for such expenditure for the benefit of the tribe as Congress may hereafter direct.

The cost of constructing the irrigation systems to irrigate allotted lands of the Indians on these reservations shall be reimbursed to the United States as hereinbefore provided, and no further reimbursements from the tribal funds shall be made on account of said irrigation works except that all charges against Indian allottees or their heirs herein authorized, unless otherwise paid, may be paid from the individual shares in the tribal funds, when the same is available for distribution, in the discretion of the Secretary of the Interior.

That in addition to the construction charges every allottee, entryman, purchaser, or owner shall pay to the superintendent of the reservation a maintenance and operation charge based upon the total cost of maintenance and operation of the systems on the several reservations, and the Secretary of the Interior is hereby authorized to fix such maintenance and operation charge upon such basis as shall be equitable to the owners of the irrigable land. Such charges when collected shall be available for expenditure in the maintenance and operation of the systems on the reservation where collected: Provided, That delivery of water to any tract of land may be refused on account of nonpayment of any charges herein authorized, and the same may, in the discretion of the Secretary of the Interior, be collected by a suit for money owed: Provided further, That the rights of the United States heretofore acquired, to water for Indian lands referred to in the foregoing provision, namely, the Blackfeet, Fort Peck, and Flathead Reservation land, shall be continued in full force and effect until the Indian title to such land is extinguished.

That the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations and issue such

notices as may be necessary to carry into effect the provisions of this Act, and he is hereby authorized and directed to determine the area of land on each reservation which may be irrigated from constructed ditches and to determine what allowance, if any, shall be made for ditches constructed by individuals for the diversion and distribution of a partial or total water supply for allotted or surplus unallotted land: Provided, That if water be available prior to the announcement of the charge herein authorized, the Secretary of the Interior may furnish water to land under the systems on the said reservations, making a reasonable charge therefor, and such charges when collected may be used for construction or maintenance of the systems through which such water shall have been furnished.

[June 27, 1918, 40 Stat. 616]

CHAP. 106.—An Act To authorize the Secretary of the Interior to issue a deed to G. H. Beckwith for certain land within the Flathead Indian Reservation, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to convey by deed, at the appraised price, to G. H. Beckwith, two certain tracts of land in the Flathead Indian Reservation and town of Saint Ignatius, Montana, lying in the southeast quarter of the southeast quarter of section fourteen, township eighteen north, range twenty west, Montana principal meridian, separated by a public highway sixty feet wide, and described as follows: The point of beginning "A" of the first tract is south eighty-nine degrees and forty-six minutes west four hundred and sixty-three and one-tenth feet from the 1/128 corner found in place on the east line of said section fourteen and north eighty-nine degrees and forty-six minutes east thirty-three feet from a 1/128 corner, which in turn is north no degrees and twenty-two minutes west eight hundred and twenty-six and seven-tenths feet from a 1/128 corner found in place on the south line of said section fourteen. Thence from point of beginning "A" north no degrees and twenty-two minutes west fifteen and eight-tenths feet to "B," thence north fifty-six degrees and thirty-seven minutes west three hundred and seventy-seven and six-tenths feet to "K," thence south no degrees and twenty-two minutes east four hundred and sixty-two and eight-tenths feet to "L," thence north eighty-nine degrees and thirty-five minutes east three hundred and fourteen and three-tenth feet to "Z," thence north no degrees and twenty-two minutes west two hundred and thirty-seven and two-tenths feet to the point of beginning, "A," and containing two and fifty-eight one-hundredths acres. The point of

beginning "C" of the second tract is north no degrees and twenty-two minutes west eighty-eight feet from the point of beginning "A" of the first tract, thence north fifty-six degrees and thirty-seven minutes west two hundred and ninety-eight feet to "D," thence north thirty-one degrees and ten minutes west one hundred and thirty feet to "F," thence north fifty-eight degrees and fifty minutes east ninety-six feet to "H," thence south forty-five degrees and thirty-three minutes east one hundred and fifteen feet to "J," thence south sixty-five degrees and six minutes east two hundred and sixty-four and two-tenths feet to "E," thence south thirty-three degrees and twenty-three minutes west one hundred and sixty feet to the point of beginning "C," and containing one and twenty one-hundredths acres: Provided, That the land in said tracts shall at no time be used for the sale of intoxicating liquors, and should it be so used, the title to the same shall revert to the Government of the United States and all payments made thereon shall be forfeited: Provided further, That whatever business is conducted on this tract shall be under Government supervision as at present, and shall continue under such supervision so long as the United States Government retains control over the Flathead Indians at this point.

Approved, June 27, 1918.

[January 7, 1919, 40 Stat. 1053]

CHAP. 5.—An Act To authorize the sale of certain lands to school district numbered twenty-eight, of Missoula County, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to sell and convey to school district numbered twenty-eight, of Missoula County, Montana, the southwest quarter of the southwest quarter of the southeast quarter of section thirty-six, township twenty-one north, range twenty west, on the Flathead Indian Reservation, in Montana, or so much thereof as may be required, for public school purposes, under such terms and regulations as he may prescribe, at not less than its appraised value; and the net proceeds from the sale of said land shall be deposited in the Treasury of the United States to the credit of the Flathead Indians, to draw interest at the rate now provided by law, and to be used for the benefit of the Indians on the Flathead Indian Reservation: Provided, That the patent therefor shall contain the condition that Indian children, residing in the said school district numbered twenty-

eight, shall at all times be admitted to the privilege of attendance and instruction on equality with white children.

Approved, January 7, 1919.

[February 28, 1919, 40 Stat. 1203]

CHAP. 71.--An Act To provide for stock-watering privileges on certain unallotted lands on the Flathead Indian Reservation, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April twenty-third, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and two), entitled "An Act for the survey and allotment of lands now embraced within the limits of the Flathead Indian Reservation, in the State of Montana," and all amendments thereto, be amended by adding thereto the following section:

"Sec. 26. That the Secretary of the Interior be, and he hereby is, authorized and directed to designate as valuable for stock-watering purposes such of the unallotted and unreserved lands of the Flathead Indian Reservation, which border on streams, as may be subject to settlement and disposal under sections nine and thirteen of this Act. Lands so designated shall be disposed of under the terms of this Act, subject to the condition, which shall be expressed in all patents issued for lands so designated, that existing trails crossing said land shall be kept open to the extent necessary to provide access for live stock to streams adjacent to said lands. The Secretary of the Interior is authorized and directed to perform all acts necessary to the enforcement of this condition."

Approved, February 28, 1919.

For Act 2/14/20, 41 Stat. 408, lieu selection Montana State lands, see p. 98, post, note 17.

[February 25, 1920, 41 Stat. 452]

CHAP. 87.--An Act for the relief of certain members of the Flathead Nation of Indians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the

period of one year from and after the approval of this Act the Secretary of the Interior is hereby authorized, under existing law and under such rules and regulations as he may prescribe, to make allotments on the Flathead Reservation, Montana, to all unallotted, living children enrolled with the tribe, enrolled or entitled to enrollment: Provided That such allotments be made from any unallotted or unsold lands within the original limits of the Flathead Indian Reservation, including the area now classified and reserved as timber lands, cut-over lands, burned or barren lands thereon; and patents issued for allotments hereunder for any lands from which such timber has not been cut and marketed, shall contain a clause reserving to the United States the right to cut and market, for tribal benefit, as now authorized by law, the merchantable timber on the lands so allotted: Provided further, That when the merchantable timber has been cut from any lands allotted hereunder, the title to such timber as remains on such lands will thereupon pass to the respective allottees and the Secretary of the Interior is hereby directed to withhold from sale or entry all lands unsold and unentered within the said reservation at the date of the passage of this Act until allotments hereunder have been completed: Provided further, That not exceeding forty acres of each allotment made under the provisions of this Act shall be designated as a homestead which shall be inalienable and nontaxable during the minority of the allottee, and thereafter until such restrictions may be removed either by Congress or the Secretary of the Interior. **Amended 6/16/50, 64 Stat.229, post p.79.**

Approved, February 25, 1920.

For Act 3/3/21, 41 Stat. 1225, 1236, claims for sale of patented lands, see p. 98, post, note 18.

[March 13, 1924, 43 Stat. 21]

CHAP. 54.--An Act For the relief of certain nations or tribes of Indians in Montana, Idaho, and Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred upon the Court of Claims, with right of appeal to the Supreme Court of the United States, to consider and determine all legal and equitable claims against the United States of the Blackfeet, Blood, Piegan, and Gros Ventre Nations or Tribes of Indians, residing upon the Blackfeet and Fort Belknap Indian Reservations, in the State of Montana; and the Flathead, Kootenais, and Upper Pend d'Oreilles Nations or Tribes of Indians, residing upon the Flathead Indian Reservation, in the State of Montana; and the Nez Perce Nation or Tribe of Indians, residing upon the Lapwai Indian Reservation, in the State of Idaho; and upon the Colville Indian

Reservation, in the State of Washington, for lands or hunting rights claimed to be existing in all said nations or tribes of Indians by virtue of the treaty of October 17, 1855 (Eleventh Statutes at Large, page 657, and the following), and in said Flathead, Kootenais and Upper Pend d'Oreilles Nations or Tribes of Indians by virtue of the Treaty of July 16, 1855 (Twelfth Statutes at Large, page 975, and the following), with said Indians, and all claims arising directly therefrom, which lands and hunting rights are alleged to have been taken from the said Indians by the United States, and also any legal or equitable defenses, set-offs, or counterclaims, including gratuities, which the United States may have against the said nations or tribes, and to enter judgment thereon, all claims and defenses to be considered without regard to lapse of time; and the final judgment and satisfaction thereof shall be in full settlement of all said claims.

That suits under this Act shall be begun by the filing of a petition within two years of the date of the approval of this Act, to be verified by the attorney or attorneys selected by the claimant Indians, with the approval of the Secretary of the Interior, employed under contracts executed and approved in accordance with existing law. The claimant Indians shall be parties plaintiff and the United States shall be party defendant, and such suits shall on motion of either party be advanced on the docket of the Court of Claims and of the Supreme Court of the United States. The compensation to be paid the attorneys for the claimant Indians shall be determined by the Court of Claims in accordance with terms of the said approved contracts and shall be paid out of any sum or sums found and adjudged to be due said Indians: But in no event shall said compensation exceed 10 per centum of the amount of the respective judgments, nor exceed $25,000 for the Indians residing on each respective reservation: Provided, however, That said compensation shall not exceed $25,000 for the Nez Perce Nation or Tribe of Indians residing on both the Lapwai and Colville Indian Reservations, nor exceed 10 per centum of the amount of any judgments rendered in favor of said Nez Perce Nation or Tribe, said compensation to be exclusive of all actual and necessary expenses in prosecuting said suits. The balance of any such judgments shall be placed in the Treasury of the United States to the credit of the Indians entitled thereto and draw interest at the rate of 4 per centum per annum.

Approved, March 13, 1924.

[May 31, 1924, 43 Stat. 246]

CHAP. 215.—An Act To provide for the addition of the names of certain persons to the final roll of the Indians of the Flathead Indian Reservation, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby authorized to add to the final roll of the Indians of the (Jocko) Flathead Indian Reservation, Montana, approved January 22, 1920, under the Act of May 25, 1918 (Fortieth Statutes, page 591), and the Act of June 30, 1919 (Forty-first Statutes, page 9), the names of the following persons, descendants of the Confederated Flathead Tribes of Indians: Lucy Contesto, Mary Sophie Contesto, Clifford Gendron, Adolph Squeque, Peter Joseph Chalwain, Dennis McLeod, Margaret Louise Ashley, Veona Carlson, Lois May Houle, Norbert Marage, Eva Matilda Matt, Eneas Isadore Woodcock, Wilton Sidney Worley, Harry Leon Beauchaine, Henry Louzeau, and Louise Isaac.

The Secretary of the Interior is also authorized to pay to each of the persons named a sum equal to that heretofore paid per capita to those whose names were on the approved roll, such payments to be made from any tribal funds in the Treasury to the Credit of the Flathead Indians.

Approved, May 31, 1924.

[May 10, 1926, 44 Stat. 453, 464]

CHAP. 277.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1927, and for other purposes.

* * * *

For continuing construction, maintenance, and operation of the irrigation systems on the Flathead Indian Reservation, in Montana, by and under the direction of the Commissioner of Indian Affairs, including the purchase of any necessary rights or property, $575,000: Provided, That of the total amount herein appropriated not to exceed $15,000 shall be available for operation and maintenance of the project, the balance to be available for the construction items hereinafter enumerated in not to exceed the following amounts: Pablo Feed Canal enlargement, $100,000; Moiese Canal enlargement, $15,000; South Side Jocko Canal, $40,000; Hubbart Feed Canal, $7,500; Camas A Canal, $2,500; Continuing construction of power plant, $395,000, of which sum $15,000 shall be immediately available for additional surveys and preparation of plans: Provided further, That no

part of this appropriation, except the $15,000 herein made immediately available shall be expended on construction work until an appropriate repayment contract, in form approved by the Secretary of the Interior, shall have been properly executed by a district or districts organized under State law embracing the lands irrigable under the project, except trust patent Indian lands, which contract, among other things, shall require repayment of all construction costs heretofore or hereafter incurred on behalf of such lands, with provision that the total construction cost on the Camas Division in excess of the amount it would be if based on the per acre construction cost of the Mission Valley Division of the project, shall be held and treated as a deferred obligation to be liquidated as hereinafter provided. Such contract shall require that the net revenues derived from the operation of the power plant herein appropriated for shall be used to reimburse the United States in the following order: First, to liquidate the cost of the power development; second, to liquidate payment of the deferred obligation on the Camas Division; third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the entire project; and fourth, to liquidate operation and maintenance costs within the entire project. Provision shall also be contained therein requiring payment of operation and maintenance charges annually in advance of each irrigation season and prohibit the granting of a water right to or the use of water by any individual for more than one hundred and sixty acres of land irrigable under constructed works within the project after the Secretary of the Interior shall have issued public notice in accordance with the Act of May 18, 1916 (Thirty-ninth Statutes at Large, pages 123-130); all lands, except lands owned by individual Indians, at the date of public notice in excess of one hundred and sixty acres not disposed of by bona fide sale within two years after said public notice shall be conveyed in fee to the United States free of encumbrance to again become a part of the public domain under contract between the United States and the individual owners at the appraised price fixed at the instance of the Secretary of the Interior, such amount to be credited in reduction of the construction charge against the land within the project retained by such owner. All lands so conveyed to the United States shall be subject to disposition by the Secretary of the Interior in farm units at the appraised price, to which shall be added such amount as may be necessary to cover any accruals against the land and other costs arising from conditions and requirements prescribed by said Secretary: Provided further, That trust patent Indian lands shall not be subject to the provisions of the law of any district created as herein provided for

but shall, upon the issuance of fee patent therefor, be accorded the same rights and privileges and be subject to the same obligations as other lands within such district or districts: Provided further, That all construction, operation, and maintenance costs, except such construction costs on the Camas Division held and treated as a deferred obligation herein provided for, on this project shall be, and are hereby, made a first lien against all lands within the project, which lien upon any particular farm unit shall be released by the Secretary of the Interior after the total amount charged against such unit shall have been paid, and a recital of such lien shall be made in any instrument issued prior to such release by the said Secretary. The contracts executed by such district or districts shall recognize and acknowledge the existence of such lien: Provided further, That pending the issuance of public notice the construction assessment shall be at the same rate heretofore fixed by the Secretary of the Interior, but upon issuance of public notice the assessment rate shall be 2 1/2 per centum per acre, payable annually, in addition to the net revenues derived from operations of the power plant as hereinbefore provided, of the total unpaid construction costs at the date of said public notice: Provided further, That the public notice above referred to shall be issued by the Secretary of the Interior upon completion of the construction of the power plant.

[January 12, 1927, 44 Stat. 934, 945]

CHAP. 27.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1928, and for other purposes.

* * *

Flathead irrigation project, Montana: For operation and maintenance, $25,000, to be immediately available: Provided, That of the unexpended balance of the appropriation for this project for the fiscal year 1927 there is hereby reappropriated and made available for the fiscal years 1927 and 1928, $40,000 for construction of the South Side Jocko Canal, available when the Jocko irrigation district shall properly execute an appropriate repayment contract, in form approved by the Secretary of the Interior, which contract shall, except as hereinafter provided, conform to the conditions provided for a contract in the appropriation for

this project for the fiscal year 1927: Provided further, That of said unexpended balance there is hereby reappropriated and made available for the fiscal years 1927 and 1928 not to exceed the following amounts: Pablo Feed Canal enlargement, $100,000; Moiese Canal enlargement, $15,000; Hubbart Feed Canal, $7,500; Camas A Canal, $2,500; available when the Flathead irrigation district shall properly execute an appropriate repayment contract, in form approved by the Secretary of the Interior, which contract shall, except as hereinafter provided, conform to the conditions provided for a contract in the appropriation for this project for the fiscal year 1927: And provided further, That the remainder of the unexpended balance of the appropriation for this project for the fiscal year 1927 shall at once become available, and remain available for the fiscal years 1927 and 1928, for continuing construction of power plant when an appropriate repayment contract, in form approved by the Secretary of the Interior, and which, except as hereinafter provide contains the provisions set forth for such a contract in the appropriation for this project for the fiscal year 1927, shall have been executed by a district or districts organized under State law embracing not less than eighty thousand acres of the lands irrigable under the project: And provided further, Any contract provided for in this paragraph shall require that the net revenues derived from operation of the power plan shall be used to reimburse the United States in the following order: First, to liquidate the cost of the power development; second, to liquidate payment of the deferred obligation on the Camas Division; third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the district or districts contracting; and fourth, to liquidate operation and maintenance costs within such district or districts. **Amended 3/7/28, 45 Stat.212,** post p.58.

[March 7, 1928, 45 Stat. 200, 212]

CHAP. 137.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1929, and for other purposes.

* * *

Flathead irrigation project, Montana: The unexpended balance of the appropriation for continuing construction of the irrigation systems on the Flathead Indian Reservation, Montana, contained in the Act of May 10, 1926 (Forty-fourth Statutes at Large, pages 464-466), as continued available

in the Act of January 12, 1927 (Forty-fourth Statutes at Large, page 945), shall remain available for the fiscal year 1929, subject to the conditions and provisions of said Acts: Provided, That the unexpended balance of the $395,000 available for continuation of construction of a power plant may be used, in the discretion of the Secretary of the Interior, for the construction and operation of a power distributing system and for purchase of power for said project but shall be available for that purpose only upon execution of an appropriate repayment contract as provided for in said Acts: Provided further, That the net revenues derived from the operation of such distributing system shall be used to reimburse the United States in the order provided for in said Acts: Provided further, That the Federal Power Commission is authorized in accordance with the Federal Water Power Act and upon terms satisfactory to the Secretary of the Interior, to issue a permit or permits or a license or licenses for the use, for the development of power, of power sites on the Flathead Reservation and of water rights reserved or appropriated for the irrigation projects: Provided further, That rentals from such licenses for use of Indian lands shall be paid the Indians of said reservation as a tribe, which money shall be deposited in the Treasury of the United States to the credit of said Indians, and shall draw interest at the rate of 4 per centum: Provided further, That the public notice provided for in the Act of January 12, 1927, shall be issued by the Secretary of the Interior upon the 1st day of November, 1930: Provided further, That in his discretion the Secretary of the Interior may provide in such repayment contracts for covering into construction costs the operation and maintenance charges for the irrigation season of 1928 and all undistributed operation and maintenance cost, and may extend the time for payment of operation and maintenance charges now due and unpaid for such period as in his judgment may be necessary, the charges now due so extended to bear interest payable annually at the rate of 6 per centum per annum until paid, and to contract for the payment of the construction charges now due and unpaid within such term of years as the Secretary may find to be necessary with interest payable annually at the rate of 6 per centum per annum until paid: Provided further, That not more than $35,000 of said reappropriated balance of $395,000 shall be immediately available for operation and maintenance, and $75,000 shall be available for construction of laterals near Ronan upon the execution of appropriate repayment contract as provided for in said Acts. Amended Act 3/4/29, 45 Stat. at p.1639, post p.60.

[March 4, 1929, 45 Stat. 1562, 1574]

CHAP. 705.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1930, and for other purposes.

* * * *

The unexpended balance of the appropriation for continuing construction of the irrigation systems on the Flathead Indian Reservation, Montana, contained in the Act of May 10, 1926 (44 Stat., pp. 464-466), as continued available in the Act of January 12, 1927 (44 Stat., p. 945), and the Act of March 7, 1928 (45 Stat., p. 212), shall remain available for the fiscal year 1930, subject to the reimbursable and other conditions and provisions of said Acts: Provided, That not more than $10,000 of the unexpended balance of $395,000 made available by the Act of March 7, 1928 (45 Stat., p. 212), for the construction of a power distributing system and for purchase of power, or for construction of power plant, shall be available for operation and maintenance, and $40,000 shall be available for construction of laterals near Ronan.

[March 4, 1929, 45 Stat. 1623, 1639]

CHAP. 707.—An Act Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1929, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1929, and June 30, 1930, and for other purposes.

* * * *

Flathead irrigation project, Montana: Not exceeding $220,000 of the unexpended balance of the appropriation of $395,000 made available by the Interior Department appropriation Act for the fiscal year 1929 for the construction and operation of a power-distributing system and for purchase of power for said project, may be used, in the discretion of the Secretary of the Interior, during the fiscal years 1929 and 1930, for the purposes and in the amounts specified, as follows: $10,000, for betterment work on Camas A. Canal; $25,000, for lateral extensions and replacement of wooden structures in the Mission Valley; $45,000, for completion of the Dry Creek Canal; $40,000, for part enlargement of Taber

Reservoir; and $100,000, for part construction of Kicking-horse Reservoir, of which sum not to exceed $15,000 may be used for classification of land in the Flathead irrigation project: Provided, That any portion remaining under such unexpended balance (after the diversions hereinbefore made) and applicable during the fiscal years 1929 and 1930 to the construction of power transmission lines and the purchase of power shall be available if and when license for the development of power on the Flathead River shall have been issued by the Federal Power Commission as provided in the Act of March 7, 1928 (45 Stat., pp. 212, 213): Provided further, That the Secretary of the Interior, in lieu of collecting past-due and unpaid construction charges with interest as provided in the Act of March 7, 1928 (45 Stat., p. 213), shall, in determining the construction costs to be fixed in the public notice specified in said Act and in the repayment contract, include the amounts due on account of said past-due construction charges in the construction costs chargeable against the respective units or legal subdivisions upon which the same are now a lien: Provided further, That the Federal Power Commission in issuing any permits or licenses for the development of power or power sites on the Flathead Indian Reservation in the State of Montana, as authorized by the Act of March 7, 1928 (45 Stat., pp. 212, 213), is hereby authorized and directed to waive payment of the usual administrative fees or commissions charged under existing laws relating to or under regulations of said Federal Power Commission in the issuance of any such permits or licenses.

[May 14, 1930, 46 Stat. 279, 291]

CHAP. 273.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1931, and for other purposes.

For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, $15,000; for continuation of construction, Camas A Betterment, $12,000; to complete construction Kicking Horse Reservoir, $100,000; Nine Pipe Feed Canal structures, $15,000; to complete Nine Pipe Reservoir, $5,000; Twin Reservoir, $30,000; lateral systems betterment, $25,000; miscellaneous engineering, surveys and examinations, $15,000; headquarters buildings, $15,000; for construction or purchase of a power distributing system or for construction of a power plant, $40,000; in all, $272,000: Provided, That the unexpended balance of the appropriations for continuing

construction of this project now available shall remain available for the fiscal years 1930 and 1931 for such construction or purchase of a power-distributing system or for construction of a power plant: Provided further, That in addition to the amounts herein appropriated for such construction or purchase of a power-distributing system or for construction of a power plant, the Secretary of the Interior may also enter into contracts for the same purposes not exceeding a total of $200,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof and appropriations hereafter made for such purposes shall be considered available for the purpose of discharging the obligation so created: Provided further, That the funds made available herein for continuation of construction shall be subject to the reimbursable and other conditions and provisions of said Acts: And provided further, That upon execution by the Jocko and Mission Districts of repayment contracts in pursuance to existing law, the operation and maintenance charges for those districts for the irrigation season of 1930 shall be covered into construction costs.

[February 14, 1931, 46 Stat. 1115,1127]

CHAP. 187.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1932, and for other purposes.

* * * *

For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, $18,000; for continuation of construction, Camas A betterment, $10,000; beginning construction of Lower Crow Reservoir, $90,000, together with the unexpended balance of the appropriation for completing the Kicking Horse Reservoir contained in the Interior Department Appropriation Act for the fiscal year 1931; beginning Pablo Reservoir enlargement, $85,000; lateral systems betterment, $25,000; miscellaneous engineering, surveys and examinations, $5,000; purchase of reservoir and camp sites, $55,000; for the construction or purchase of a power distributing system, $50,000; in all $338,000: Provided, That the unexpended balance of the appropriations for continuing construction of this project now available shall remain available for the fiscal year 1932 for such construction or purchase of a power-distributing system: Provided further, That in addition to the amounts herein appropriated for such construction or purchase of a power-distributing system, the Secretary of the Interior may also enter into contracts for the same purposes not exceeding a total of $200,000, and his action in so doing shall be deemed a contractual obligation of the Federal

Government for the payment of the cost thereof and appropriations hereafter made for such purposes shall be considered available for the purpose of discharging the obligation so created: Provided further, That the funds made available herein for continuation of construction shall be subject to the reimbursable and other conditions and provisions of said Acts: Provided further, That in any district in this project, which has or may hereafter execute a repayment contract in pursuance of existing law, the first payment of construction charges may in the discretion of the Secretary of the Interior be required in the calendar year 1935, but in any event the total repayment of such construction charges shall be required in not more than forty years from the date of public notice heretofore given: And provided further, That upon execution by the Jocko and Mission districts of repayment contracts in pursuance to existing law, the operation and maintenance charges for those districts for the irrigation season of 1931 shall be covered into construction costs.

[March 4, 1931, 46 Stat. 1552, 1567]

CHAP. 522.—An Act Making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1931, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1931, and June 30, 1932, and for other purposes.

* * * *

Irrigation systems, Flathead Reservation, Montana (reimburseable): For an additional amount for the construction and/or purchase of a power distributing system for the use of the Flathead irrigation project, Montana, fiscal years, 1931 and 1932, $200,000 in lieu of the contract authorizations of $200,000 for this purpose contained in the Interior Department Appropriation Acts for the fiscal years 1931 and 1932.

[April 22, 1932, 47 Stat. 91, 101]

CHAP. 125.—AN ACT Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1933, and for other purposes.

* * *

For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, $12,000; for continuation of construction Camas A betterment, $2,000; completing cnnstruction of Lower Crow Reservoir $135,000, together with the unexpended balance of the appropriations for cnntinuing construction of the Flathead irrigation system contained in the Interior Department Appropriation Act for the fiscal year 1932; continuing Pablo Reservoir enlargement, $80,000; lateral systems betterment, $20,000; miscellaneous engineering, surveys, and examinations, $5,000; in all, $254,000: Provided, That the funds made available herein for continuation of construction shall be subject to the reimbursable and other conditions and provisions of said Acts: Provided further, That upon execution by the Jocko district of repayment contract in pursuance to existing law, the operation and maintenance charges for such district for the irrigation season of 1932 shall be covered into construction costs.

[February 17, 1933, 47 Stat. 820, 830]

CHAP. 98.—AN ACT Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1934, and for other purposes.

* * *

For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, $12,000;* * * Provided, That the unexpended balance of the appropriation of $55,000 contained in the Interior Department Appropriation Act, fiscal year 1932 (46 Stat., p. 1127), for purchase of sites for reservoirs, construction headquarters and administrative uses, is hereby made available for the same purpose until June 30, 1934: Provided further, That (with the consent of the irrigation districts on the Flathead irrigation project which have executed repayment cnntracts with the United States as required by law) the Secretary of the Interior may modify the terms of such contracts by requiring the operation and maintenance charges (not heretofore carried into construction costs and dealt with in the Act of March 7, 1928 (45 Stat., pp. 212-213)) to be paid over the same period of years and in like manner as the construction costs are to be paid under the terms of the

public notice issued by such Secretary on November 1, 1930, as amended April 20, 1931: Provided further, that the first installment of such operation and maintenance charges shall be due and payable on the same date as the first installment of construction charges is due and payable, where modifications of the contracts are made pursuant hereto.

[May 9, 1935, 49 Stat. 176, 187]

CHAP. 101.—An Act Making appropriations for the Department of the Interior for the fiscal year ending June 30, 1936, and for other purposes.

* * *

For operation and maintenance of the irrigation systems on the Flathead Indian Reservation, Montana, $12,000, reimbursable, together with $110,000 from which amount expenditures shall not exceed the aggregate receipts covered into the Treasury in accordance with section 4 of the Permanent Appropriation Repeal Act, 1934: Provided, That (with the consent of the irrigation districts of the Flathead irrigation project which have executed repayment contracts with the United States as required by law) the Secretary of the Interior may modify the terms of such contracts by requiring the operation and maintenance charges (not heretofore carried into construction costs and which were dealt with in the Act of March 7, 1928 (45 Stat., pp. 212-213)), and those accruing subsequent to March 7, 1928, which were due and unpaid at the time of execution of repayment contract, to be paid over the same period of years and in like manner as the construction costs are to be paid under the terms of the public notice issued by such Secretary on November 1, 1930, as amended April 20, 1931: Provided, That no interest rate shall be charged from and after the date of the passage of this Act: Provided further, That the first installment of such operation and maintenance charges shall be due and payable on the same date as the first installment of construction charges is due or may be due and payable, where modifications of the contracts are made pursuant hereto: Provided further, That the first installment of construction costs shall be due and payable in December 1938 instead of the date now fixed: Provided further, That the operation and maintenance costs assessable against the Jocko Valley irrigation district for the calendar year of 1935 shall be carried into the construction costs and shall be payable as other construction costs.

[June 7, 1935, 49 Stat. 328]

CHAP. 191.--An Act to provide funds for cooperation with Joint School District Numbered 28, Lake and Missoula Counties, Montana, for extension of public-school buildings to be available to Indian children of the Flathead Indian Reservation.

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $100,000 for the purpose of cooperating with Joint School District Numbered 28, Lake and Missoula Counties, Montana, for the extension and improvement of public-school buildings, namely, at Arlee in the sum of $40,000, at Roman in the sum of $30,000, and at St. Ignatius in the sum of $30,000: Provided, That the expenditure of any money so appropriated shall be subject to the condition that the schools maintained by said district shall be available to all Indian children of the Flathead Indian Reservation, Montana, on the same terms, except as payment of tuition, as other children of said school district: Provided further, That such expenditures shall be subject to such further conditions as may be prescribed by the Secretary of the Interior.

Approved, June 7, 1935.

[April 4, 1938, 52 Stat. 193]

CHAP. 63.--An Act To authorize the Secretary of the Interior to grant concessions on reservoir sites and other lands in connection with Federal Indian irrigation projects wholly or partly Indian, and to lease the lands in such reserves for agricultural, grazing, and other purposes.

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to grant concessions on reservoir sites, reserves for canals or flowage areas, and other lands under his jurisdiction which have been withdrawn or otherwise acquired in connection with the San Carlos, Fort Hall, Flathead, and Duck Valley or Western Shoshone irrigation projects for the benefit in whole or in part of Indians, and to lease such lands for agricultural, grazing, or other purposes: Provided, That no lands so leased shall be eligible for benefit payments under the crop control program, or the

soil conservation act: Provided further, That such concessions may be granted or lands leased by the Secretary of the Interior under such rules, regulations, and laws as govern his administration of the public domain as far as applicable, for such considerations, monetary or otherwise, and for such periods of time as he may deem proper, the term of no concession to exceed a period of ten years: Provided further, That the funds derived from such concessions or leases, except funds so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be available for expenditure in accordance with the existing laws in the operation and maintenance of the irrigation projects with which they are connected. Any funds derived from reserves for which the tribe has not been compensated shall be deposited to the credit of the proper tribe: Provided further, That where tribal lands of any Indian tribe organized under section 16 of the Act of June 18, 1934 (48 Stat. 984), have been withdrawn or reserved for the purposes hereinbefore mentioned, such lands may be leased or concessions may be granted thereon only by the proper tribal authorities, upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws or charter of the respective tribes.

Approved, April 4, 1938.

[August 5, 1939, 53 Stat. 1221]

CHAP. 483.—Joint Resolution To approve the action of the Secretary of the Interior deferring the collection of certain irrigation construction charges against lands under the San Carlos and Flathead Indian irrigation projects.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in accordance with the Act of June 22, 1936, the action of the Secretary of the Interior in deferring such charges under said irrigation projects is hereby approved.

Approved, August 5, 1939.

[June 24, 1946, 60 Stat. 302]

CHAP. 460.—An Act To provide for the disposition of tribal funds of the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of existing law, the tribal funds now on deposit or hereafter placed to the credit of the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, in the United States Treasury, shall be available for such purposes as may be designated by the tribal council of said tribe and approved by the Secretary of the Interior: Provided, That any expenditures so designated and approved shall be in accordance with the provisions of the tribal constitution and charter.

Approved June 24, 1946.

[July 30, 1946, 60 Stat. 715]

CHAP. 701.—An Act Conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and render judgment in any and all claims which the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation in Montana, or any tribe or band thereof, may have against the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction is hereby conferred upon the Court of Claims, subject to review by the Supreme Court of the United States on writ of certiorari as in other cases, to hear, examine, adjudicate, and render judgment in any and all legal and equitable claims of whatsoever nature which the Confederated Salish and Kootenai Tribes of Indians of the Flathead Reservation of Montana, or any tribe or band thereof, may have against the United State.

Sec. 2. That suit or suits under this Act may be instituted by the Confederated Salish and Kootenai Tribes of Indians, or any tribe or band thereof, either separately or jointly, as party or parties plaintiff, against the United States as party defendant, by filing within five years after the approval of this Act a petition or petitions in the Court of Claims and serving with respect to each suit a copy thereof on the Attorney General of the United States, who, either in person or by some attorney from the Department of Justice to be designated by him, shall appear and defend the interests of the United States. Such petition or petitions shall set

forth the facts upon which the claim or claims for recovery is or are based and shall be verified by the attorney or attorneys employed by said Indians, under contract approved in accordance with existing law, to prosecute said claims, which may be made upon information and belief, and no other verification shall be necessary. The petition or petitions shall be subject to amendment at any time prior to final submission of the case to the Court of Claims. Such petition or petitions may, in addition to alleging specific claims, demand a general accounting of all funds and property expended or used by the United States for the account of said Indians, in which event the General Accounting Office shall within a reasonable time from date of filing said petition or petitions make a complete audit of said accounts, and, in addition to the usual copies furnished the Attorney General, shall furnish a copy thereof to the attorney or attorneys for said Indians; and the court, after full hearing, shall state the account and render judgment in accordance therewith.

Sec. 3. That at the trial of any suit instituted hereunder the court shall settle and determine the rights therein, both legal and equitable, of said Indians against the United States, notwithstanding lapse of time or statutes of limitation. In the determination of the validity of any claim asserted or defense interposed hereunder, the court shall have the full power and authority of a court of equity.

Sec. 4. That the court shall have authority, by proper orders and process, to make parties to any suit or suits instituted hereunder any other tribe, band, or group of Indians deemed by it necessary or proper to a final determination of the matters in controversy.

Sec. 5. That in any suit instituted hereunder any letter, paper, document, map, or record in the possession of any officer or department of the United States (or certified copies thereof) may be used in evidence, and the departments of the Government of the United States shall give full and free access to the attorney or attorneys for said Indians to such letters, papers, documents, maps, or records as may be useful to said attorney or attorneys in the preparation for trial or trials of such suit or suits.

Sec. 6. That no payment or payments which have been made by the United States upon any claim or claims asserted in any suit brought hereunder, or expended for any of the said Indians, shall operate as an estoppel against any suit brought hereunder, but there shall be set off against any recovery obtained by said Indians hereunder any payment made

by the United States on any claim asserted by said Indians, together with such gratuity expenditures as are directed to be set off by the Act of Congress, approved August 12, 1935 (49 Stat. 596): Provided, That no moneys expended for the benefit of said Indians under the Wheeler-Howard Act, approved June 18, 1934 (48 Stat. 984), shall be applicable as set-offs.

Sec. 7. That upon the final determination of any suit or suits instituted hereunder, the Court of Claims, in the event of judgment for said Indians shall determine such fees or compensation to be paid the attorney or attorneys as said court shall find reasonable or equitable, and in addition thereto such actual and necessary expenses as shall have been incurred by the attorney or attorneys in the prosecution of said claims. In no case shall the fees or compensation decreed by said Court of Claims be in excess of the amount stipulated in the contract or cnntracts approved by the Commissioner of Indian Affairs and the Secretary of the Interior, and in no event to exceed 10 per centum of the amount of the recovery, and shall be paid out of any money appropriated by Congress for the benefit of said Indians pursuant to any judgment hereunder.

Sec. 8. That the amount of any judgment recovered for said Indians, less attorneys' fees and expenses, shall be placed to the credit of said Indians in the Treasury of the United States and shall draw interest at the rate of 4 per centum per annum from date of judgment and shall thereafter be subject to appropriation by Congress and used for the benefit of said Indians, including, but without limitations, the purchase of lands, livestock, farming implements, erection of buildings and improvements, and for productive enterprises, with the approval of the Secretary of the Interior and the consent of said Indians.

Approved July 30, 1946.

[July 26, 1947, 61 Stat. 494]

Chap. 340.—An Act To authorize the Secretary of the Interior to defer the collection of certain irrigation construction charges against lands under the Flathead Indian irrigation project.

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled, That notwithstanding any provisions of the Act entitled "An Act to authorize the Secretary of the Interior to investigate and adjust irrigation charges on irrigation lands within projects on Indian reservations, and for other purposes", approved

June 22, 1936 (49 Stat. 1803), the Secretary of the Interior is authorized and directed to defer the collection of irrigation construction charges on the Flathead Indian irrigation project until January 1, 1949.

Approved July 26, 1947.

[May 20, 1948, 62 Stat. 248]

CHAP. 325.—An Act To authorize the sale of certain individual Indian land on the Flathead Reservation to the State of Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Clara Keenan Dumontier, a Flathead Indian, is hereby authorized to sell and convey to the State of Montana the following-described tract of land held by the United States in trust for her under the provisions of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), said conveyance to be made by an appropriate warranty deed approved by the Secretary of the Interior or his authorized representative: A tract of land in the north half of the southwest quarter, section 1, township 16 north, range 20 west, Montana principal meridian; more particularly described as follows: Beginning at the southwest corner of the said north half southwest corner, section 1, thence from the said point of beginning northerly along the west line of the said point of beginning northerly along the west line of the said section 1, two hundred and fourteen and five-tenths feet, to a point; thence south eighty degrees forty-eight minutes east one thousand three hundred and forty and five-tenths feet, to a point, on the south line of the said north half of the southwest quarter, section 1; thence westerly along the south line of the said north half of the southwest quarter, section 1, one thousand three hundred and twenty-three and three-tenths feet, to the said point of beginning, containing three and twenty-six hundredths acres, more or less.

Approved May 20, 1948.

[May 25, 1948, 62 Stat. 269]

An Act To provide for adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the repayment to the United States of all reimbursable costs heretofore or hereafter incurred for the construction of the irrigation and power systems of the Flathead Indian irrigation project in Montana (hereinafter called the project), including such operation and maintenance costs as have been covered into construction costs under the Act of March 7, 1928 (45 Stat. 200, 212-213), and supplemental Acts, and including the unpaid operation and maintenance costs for the irrigation seasons of 1926 and 1927 which are hereby covered into construction costs, shall be accomplished as prescribed by this Act, notwithstanding any provision of law to the contrary.

Sec. 2. (a) All costs heretofore or hereafter incurred for the construction of the irrigation system shall be allocated to the Mission Valley, Camas, and Jocko divisions of the project in proportion to the amount of such costs incurred for the respective benefit of each of these divisions.

(b) The net revenues heretofore and hereafter accumulated from the power system shall be determined by deducting from the gross revenues the expenses of operating and maintaining the power system, and the funds necessary to provide for the creation and maintenance of appropriate reserves in accordance with section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3).

(c) The deferred obligation established by the Act of May 10, 1926 (44 Stat. 453, 464-466), for repayment of the per acre costs of the Camas division in excess of the per acre costs of the Mission Valley division shall be determined on the basis of the costs heretofore incurred for the construction of those divisions, and shall be liquidated from the net revenues heretofore accumulated from the power system.

(d) The remainder of the net revenues heretofore accumulated from the power system shall be applied to reduce the reimbursable costs heretofore incurred for the construction of the power system and the reimbursable costs heretofore incurred for the construction of the irrigation system (exclusive of the deferred obligation for the excess costs of the Camas division) as allocated among the several divisions pursuant to subsection (a) of this section, in proportion to the respective amounts of each of the foregoing categories of costs.

(e) The reimbursable costs heretofore incurred for the construction of the irrigation system of each division of the project and not repaid through the credits provided for in subsections (c) and (d) of this subsection shall be

scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period of fifty years from January 1, 1950. The reimbursable costs hereafter incurred for the construction of the irrigation system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be distributed over all irrigable lands within the division on an equal per acre basis, and the costs so charged against any parcel of lands within the division shall constitute a first lien thereon under the Act of May 10, 1926 (44 Stat. 453, 464-466). Upon the maturity or prepayment of any annual installment, the amount of the installment shall be reduced by deducting any sums included therein which are chargeable to lands on which the collection of construction costs is then deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or which are chargeable to other lands and have been already repaid to the United States.

(f) The reimbursable costs heretofore incurred for the construction of the power system and not repaid through the credits provided for in subsections (c) and (d) of this subsection, or through other credits from the revenues of the power system, shall be scheduled for repayment in annual installments of approximately equal amount, in a manner which will provide for liquidation of such costs over a period not exceeding the remaining useful life of the power system as a whole, or not exceeding fifty years from January 1, 1950, whichever period is the lesser. The reimbursable costs hereafter incurred for the construction of the power system shall be added to the schedule of repayments established pursuant to this subsection by increasing the amount or the number, or both, of the annual installments maturing after the incurrence of such costs, in a manner which will provide for their liquidation within a period not exceeding the useful life of the works involved, or not exceeding fifty years from the time when the additional costs are incurred, whichever period is the lesser. Each annual installment shall be repaid to the United States solely out of the revenues from the power system.

(g) Electric energy available for sale through the power system shall be sold at the lowest rates which, in the judgment of the Secretary of the Interior, will produce net revenues sufficient to liquidate the annual installments of the power system construction costs established pursuant to subsection (f) of this section, and (for the purpose of reducing the irrigation system construction costs chargeable against the lands embraced within the project and of insuring the carrying out of the intent and purpose of legislation and repayment contracts applicable to the project) to yield a reasonable return on the unliquidated portion of the power system construction costs, and (for the same purpose) to yield such additional sums as will cover the amount by which the wholesale value of the electric energy sold exceeds the cost thereof where such excess is the result of the electric energy having been obtained on a special basis in return for water rights or other grants.

(h) All net revenues hereafter accumulated from the power system shall be applied annually to the following purposes, in the following order of priority:

(1) To liquidate all matured installments of the schedule of repayments for construction costs of the power system;

(2) To liquidate all matured installments of the schedule of repayments for construction costs of the irrigation system of each division, on an equal per acre basis for all irrigable lands within the division;

(3) To liquidate unmatured installments of the schedule of repayments for construction costs of the power system which will mature at a date not later than the maturity of any unliquidated installment of irrigation system construction costs;

(4) To liquidate unmatured installments of the schedule of repayments for construction costs of the irrigation system of each division which will mature at a date prior to the maturity of any unliquidated installment of power system construction costs, on an equal per acre basis for all irrigable lands within the division;

(5) To liquidate construction costs chargeable against Indian-owned lands the collection of which is deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a); and

(6) To liquidate the annual operation and maintenance costs of the irrigation system.

(i) In applying net revenues from the power system to the annual installments of irrigation system construction costs for any division of the project under the preceding subsection, allowance shall be made for any construction costs deferred under the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C., sec. 386a), or already repaid to the United States which have been deducted from such installments under subsection (e) of this section, by distributing the net revenues available for such application over all irrigable lands within the division on an equal per acre basis, and by applying the net revenues distributed to the lands chargeable with the construction costs that have been so deferred or repaid, in amounts proportionate to the deductions made on account of such costs, to any then unpaid or subsequently assessed costs of operating and maintaining the irrigation system which are chargeable against the same lands.

(j) Any matured installment of irrigation system construction costs, or portion thereof, which is not liquidated at or before its maturity through the application thereto of net revenues from the power system under subsection (h) of this section shall be repaid to the United States by an assessment against the lands chargeable with the construction costs included in the installment. Such repayment shall be deferred for any period of time that may be requisite to provide for the assessment and collection of such costs in conformity with the laws of the State of Montana, but shall be completed within two years after the maturity of the installment concerned.

Sec. 3. The repayment adjustments provided for in sections 1 and 2 of this Act shall not become effective unless, within two years after the approval of this Act, the irrigation districts embracing lands within the project not covered by trust or restricted patents have entered into contracts satisfactory to the Secretary of the Interior, whereby such districts (1) obligate themselves for the repayment of the construction costs chargeable against all irrigable lands embraced within the districts contracting (exclusive of Indian-owned lands on which the collection of construction costs is deferred) to the extent and in the manner prescribed by sections 1 and 2 of this Act; (2) consent to such revisions in the limits of cost for the project, or any division thereof, as the Secretary and the districts contracting may mutually agree upon in order to facilitate the making of needed improvements and extensions to the irrigation and power systems; (3) provide for redetermination by the Secretary of the irrigable area of the project, or any division thereof, and for the exclusion of lands from the project,

with the consent of the holder of any water rights that would be canceled by such exclusion; and (4) make such other changes in the existing repayment contracts as the Secretary and the districts contracting may mutually agree upon for accomplishment of the purposes of this Act. In order to facilitate the commencement of repayment at the earliest practicable time, such contracts may provide for adjusting the maturity dates or amounts of the annual installments in a manner which will ultimately place the repayment schedules on substantially the same basis as though such contracts had been entered into prior to their actual execution, but not earlier than January 1, 1949.

Sec. 4. Unpaid charges for operation and maintenance of the irrigation system which were assessed prior to May 10, 1926, against any lands within the project, amounting to a sum not exceeding $40,549.89, and unpaid charges due from consumers for electric energy sold through the power system between July 1, 1931, and June 30, 1942, amounting to a sum not exceeding $2,195.16, are hereby canceled. The cancellation of the operation and maintenance charges shall be reported in the reimbursable accounts rendered to the Comptroller General of the United States, pursuant to the Act of April 14, 1910 (36 Stat. 269, 270; 25 U. S. C., sec. 145), as deductions from the total indebtedness of the project without regard to the fiscal years in which, or the appropriations from which, the expenditures were made.

Slaughter omitted this at Equity meeting

Sec. 5. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the following sums, for the following purposes, to be reimbursed to the United States as hereinafter provided:

(a) The sum of $64,161.18, with interest thereon at the rate of 4 per centum per annum from May 18, 1916, and the sum of $409.38, with interest thereon at the same rate from December 1, 1925, to be used to repay the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana the balance remaining due them under the Act of May 18, 1916 (39 Stat. 123, 141). The aggregate principal amount of $64,570.56 so repaid shall be added to the construction costs of the project and shall be reimbursable.

(b) The sum of $400,000 to be deposited in the United States Treasury to the credit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana; of which sum one-half shall be in full settlement of all claims

Wo Ck

of said tribes on account of the past use of tribal lands for the physical works and facilities of the irrigation and power systems of the project, or for wildlife refuges; and the other one-half shall be in full payment to said tribes for a permanent easement to the United States, its grantees and assigns, for the continuation of any and all of the foregoing uses, whether heretofore or hereafter initiated, upon the tribal lands now used or reserved for the foregoing purposes. The said tribes shall have the right to use such tribal lands, and to grant leases or concessions thereon, for any and all purposes not inconsistent with such permanent easement. The amount deposited in the Treasury pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(c) The sum of $1,000,000 to continue the construction of the irrigation and power systems of the project. Amounts expended pursuant to this subsection shall be added to the construction costs of the project and shall be reimbursable.

(d) No expenditure shall be made from any appropriation granted under the authorizations contained in this section until the repayment of all reimbursable construction costs incurred through such expenditure has been secured by contracts conforming to the requirements of section 3 of this Act.

Sec. 6. In each fiscal year commencing after the approval of this Act for which an appropriation of the power revenues from the project is made in an indefinite amount pursuant to section 3 of the Act of August 7, 1946 (60 Stat. 895; 31 U. S. C., sec. 725s-3), the power revenues so appropriated shall be available, to the extent of not to exceed $75,000, for the purpose, in addition to those other purposes now required or permitted by law, of making such improvements and extensions to the power system as the Secretary of the Interior may deem requisite for the provision of electric service to persons whose applications for such service could not otherwise be complied with in due course of business. Amounts so expended shall be added to the unmatured portion of the reimbursable construction costs of the power system in accordance with subsection 2 (f) of this Act, so as not to reduce the net power revenues available for application under subsection 2 (h) of this Act.

Sec. 7. Consistent with the terms of the repayment contracts heretofore or hereafter executed, the Secretary of the Interior is hereby authorized to issue such public notices fixing construction costs and apportioning construction charges, to enter into such contracts, to make such determinations, to

effect such adjustments in project accounts, to prescribe such regulations, and to do such other acts and things as may be necessary or appropriate to accomplish the purposes of this Act.

Sec. 8 All Acts or parts thereof inconsistent with the provisions of this Act are hereby repealed. Amended Act 5/25/50, 64 Stat.192, post p.79.

Approved May 25, 1948.

[August 18, 1949, 63 Stat. 614]

CHAP. 472.--An Act Authorizing the Secretary of the Interior to issue to Lake County, Montana, a patent in fee to certain Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, with the consent and approval of the tribal council of the Consolidated Tribes of Flathead, Kootenai, and Salish Indians, to issue to Lake County, Montana, a patent in fee to the following-described lands on the Flathead Indian Reservation, Montana: The north half of the northwest quarter of the southwest quarter of the southeast quarter of section 36, township 21 north, range 20 west, Montana principal meridian, containing five acres more or less.

Approved August 18, 1949.

[August 19, 1949, 63 Stat. 621]

CHAP. 487.--An Act To authorize an appropriation in aid of a system of drainage and sanitation for the city of Polson, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $100,000 or so much thereof as may be necessary for the repair and rehabilitation or replacement of the drainage structures of a system of drainage for lands within and adjacent to the city of Polson, Montana, on the Flathead Indian Reservation in sections 3, 4, 8, 9, and 10, township 22 north, range 20 west, Montana principal meridian: Provided, That the said

city or the residents in the affected area form a drainage-sanitation district and levy an assessment to provide additional funds to convert the drainage lines into a dual purpose system for drainage and sewer disposal purposes and agree to take title to the system and operate and maintain it in perpetuity.

Sec. 2. Nothing in this Act shall be construed as an admission of liability on the part of the United States for damages that may be claimed by any property owner as resulting from seepage in the affected area, and the drainage-sanitation district formed pursuant to section 1 hereof shall specifically agree to hold the United States harmless against any and all damage claims that may be asserted by property owners of the area.

Approved August 19, 1949.

[October 6, 1949, 63 Stat. 722]

An Act To amend an Act entitled "An Act to provide for the adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes", approved May 25, 1948.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 4 of the Act entitled "An Act to provide for the adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes", approved May 25, 1948, is hereby amended to read as follows:

"Sec. 4. Unpaid charges for operation and maintenance of the irrigation system which were assessed prior to May 10, 1926, against any lands within the project, amounting to a sum not exceeding $40,549.89, together with all unpaid interest and penalties on such charges, and unpaid charges due from consumers for electric energy sold through the power system between July 1, 1931, and June 30, 1942, amounting to a sum not exceeding $2,195.16, together with interest thereon, are hereby canceled."

Approved October 6, 1949

[May 25, 1950, 64 Stat. 192]

CHAP. 201.—An Act To amend certain provisions of the Act of May 25, 1948 (Public Law 554, Eightieth Congress), relating to the Flathead Indian irrigation project.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the repayment adjustments and other provisions of sections 1 and 2 of the Act of May 25, 1948 (Public Law 554, Eightieth Congress) providing for the adjustment of irrigation charges on the Flathead Indian irrigation project, Montana, and for other purposes, shall be effective as to lands included in any irrigation district which has or which shall have entered into a contract conforming to the provisions of said Act on or before May 25, 1951. Said Act as herein amended shall not be deemed to defer the repayment obligations provided for in existing contracts between the Secretary of the Interior and any irrigation district on the Flathead Indian irrigation project which has not entered into a repayment contract conforming to the provisions of the Act of May 25, 1948, as herein amended, unless and until such district shall have entered into such a contract: Provided, That the appropriation authorizations of said Act shall be effective, and moneys appropriated thereunder shall be available for expenditure, when an irrigation district or districts containing not less than 70 per centum of the irrigable acreage of the non-Indian lands within the Flathead Indian irrigation project shall have entered into repayment contracts under said Act.

Approved May 25, 1950.

[June 16, 1950, 64 Stat. 229]

CHAP. 264.—An Act To amend the Act of February 25, 1920 (41 Stat 452), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second proviso of the Act entitled "An Act for the relief of certain members of the Flathead Nation of Indians, and for other purposes" approved February 25, 1920 (41 Stat. 452), is amended by striking out "when the merchantable timber has been cut from any lands allotted hereunder" and substituting in lieu thereof "when the first cutting of merchantable timber from any lands allotted hereunder has been completed".

Sec. 2. The right heretofore reserved to the United States in any of the patents for allotments issued under the provisions of said Act of February 25, 1920 (41 Stat. 452), to cut and market timber for the benefit of the Confederated Salish and Kootenai Tribes of the Flathead Reservation shall be limited to the cutting of so much of the merchantable timber on such allotments as may be cut during the first cutting operations on such allotments, and when such cutting operations have been completed, the title to the residual timber on such allotments shall thereupon pass to the respective allottees or their heirs or devisees.

Approved June 16, 1950.

[August 8, 1950, 64 Stat. 418]

An Act To authorize the elimination of lands from the Flathead Indian irrigation project, Montana.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to eliminate from the Flathead Indian irrigation project, on application by the owner thereof, twelve acres, more or less, of land in the northwest quarter of the northwest quarter of section 6, township 21 north, range 23 west, of the Montana meridian: Provided, That the landowner shall pay all accrued irrigation charges heretofore assessed against the land and relinquish the water right to the United States for the benefit of the Flathead irrigation project, and no further charges shall be assessed against the land: Provided further, That the obligations of the Flathead irrigation district for the repayment of the reimbursable construction costs of the Camas division of the Flathead Indian irrigation project shall not be reduced or otherwise affected by reason of the elimination of the land, and such elimination shall not be made until the Board of Commissioners of that district has consented thereto: And provided further, That, notwithstanding the elimination of said land from the Flathead irrigation project, there shall be reserved to the United States a right-of-way for ditches and canals now or hereafter needed for the operation and maintenance of the project works, and the owner of said land shall release the United States and its assigns from all liability for damage to said land by reason of the operations of the project.

Approved August 8, 1950.

[April 1, 1952, 66 Stat. 32]

CHAP. 126.—An Act To authorize the Secretary of the Interior to issue to School District Numbered 28, Ronan, Montana a patent in fee to certain Indian land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized and directed, with the consent of the Tribal Council of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, to issue to School District Numbered 28, Ronan, Montana, a patent in fee to certain land situated in Ronan, Montana, and more particularly described as follows: South half northwest quarter - southwest quarter southeast quarter, section 36, township 21 north, range 20 west, containing five acres, more or less, of Tribal Agency Reserve Land.

Approved April 1, 1952.

[August 1, 1953, 67 Stat. B132]

CONCURRENT RESOLUTION

WHEREAS it is the policy of Congress, as rapidly as possible, to make the Indians within the territorial limits of the United States subject to the same laws and entitled to the same privileges and responsibilities as are applicable to other citizens of the United States, to end their status as wards of the United States, and to grant them all of the rights and prerogatives pertaining to American citizenship; and

WHEREAS the Indians within the territorial limits of the United States should assume their full responsibilities as American citizens: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is declared to be the sense of Congress that, at the earliest possible time, all of the Indian tribes and the individual members thereof located within the States of California, Florida, New York, and Texas, and all of the following named Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians: The Flathead Tribe of Montana, the Klamath

Tribe of Oregon, the Menominee Tribe of Wisconsin, the Potowatamie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe who are on the Turtle Mountain Reservation, North Dakota. It is further declared to be the sense of Congress that, upon the release of such tribes and individual members thereof from such disabilities and limitations, all offices of the Bureau of Indian Affairs in the States of California, Florida, New York, and Texas and all other offices of the Bureau of Indian Affairs whose primary purpose was to serve any Indian tribe or individual Indian freed from Federal supervision should be abolished. It is further declared to be the sense of Congress that the Secretary of the Interior should examine all existing legislation dealing with such Indians, and treaties between the Government of the United States and each such tribe, and report to Congress at the earliest practicable date, but not later than January 1, 1954, his recommendations for such legislation as, in his judgment, may be necessary to accomplish the purposes of this resolution

Passed August 1, 1953.

Finding No. 26

The Federal Power Commission has Recently Held that the Tribes are Entitled to Only 42.13% of the Commercial Value of the Kerr Development at Tribal Site No. 1.

The Tribes, having been organized on October 28, 1935 as the Confederated Salish and Kootnai Tribes of the Flathead Reservation, pursuant to the Indian Reorganization Act of June 18, 1934, filed a petition in 1959 for readjustment of the Indian rental for Site No. 1 pursuant to Section 10(e) of the Federal Power Act. The Tribes claimed that the Federal Power Act superseded the provision for readjustment of rentals by agreement or, if necessary, arbitration, incorporated in Article 30(D) of original License No. 5. Action on the petition of the Tribes was deferred by the Commission pending a decision in the Third Unit case.[1/] After the final determination of the Third Unit case by the Court of Appeals for the District of Columbia on January 25, 1962, efforts to negotiate a readj stment of the annual charges resumed but again failed. Therefore, on March 29, 1965 the Federal Power Commission ordered a hearing on the readjustment, and on October 4, 1967 the Commission issued an opinion and order readjusting annual charges.[2/] Although the Commission adopted a somewhat different method for arriving at the commerical value

of the development at the Kerr site (adopting the "profitability method"[3] in lieu of the "division of the net benefits method" used by the Commission in the Third Unit case) the Commission adhered to the view that the Tribes contributed only a portion of the resources involved in the development and hence were entitled to a rental reflecting that portion of the benefits. Actually in this latest decision in point, the Federal Power Commission attributed only 42.13% of the resources contributing to the development to the Tribes.

The figure 42.13% was arrived at by the Commission in the following manner: the land underlying the dam and power plant structures (i.e., the dam site), and the water flowing by that site unrelated to Flathead storage (i.e., natural stream flow at the site plus releases from the upstream Government development at Hungry Horse), were assigned a value of 68.5% of the total. This was on the theory that a run-of-the-river installation at the dam site using only natural stream flow plus regulated releases from Hungry Horse would produce 68.5% of the power which could be produced at Kerr. Since the Tribes owned the land at the dam site, but did not own the water,[4] and since value was divided 50-50 between the land and water, the Tribes were credited by the Commission with 34.25% of the value of the development on account of their ownership of the dam site. Since storage in Flathead Lake

would account for the remaining 31.5% of the value of the development attributable to natural resources, and since the Tribes were credited with owning the land underlying one-half of the lake but none of the water in the lake, the Tribes were credited with 1/4 of this 31.5%, or 7.88%.

The figure 42.13% is the sum of 34.25% attributable to the dam site and 7.88% attributable to the Tribes' interest in Flathead Lake. Interests in land and water not owned by the Tribes were attributed to the Montana Power Company undoubtedly because of its interest therein as lessee.

The above theory of allocating a portion of the value of the development to the Tribes was based primarily upon the expert testimony of Mr. Sporseen, an expert witness whose testimony was offered by the Tribes.[5/] The Tribes' expert witness in this case, Mr. Van Scoyoc, also testified for the Tribes in the Federal Power Commission proceeding. In that proceeding, Mr. Van Scoyoc stated that the Tribes contributed only 57.53% of the total resources constituting the hydroelectric site.[6/]

Footnotes to Finding No. 26

1/ Under the terms of the amendment of July 17, 1936 which were agreed to by the Tribes, the licensee was to install two units totaling over 150,000 horsepower, instead of the original three units totalling 150,000 horsepower which had been proposed originally. The first of these units was installed and placed in operation in May of 1939; the second was placed in operation in May of 1949. Montana Power Co. v. F.P.C., 112 U.S. App. D.C. 7, 8, 298 F. 2d 335, 336 (1962).

On December 3, 1951, application was made by the licensee for an amendment to License No. 5 which would authorize the construction of a third generating unit at the Kerr site. Id. The Tribes objected to the issuance of a license for the third unit unless provision was made in License No. 5 for payment by the licensee of reasonable additional compensation to the Tribes for the additional uses proposed. Negotiations failed to produce agreement and the licensee, by letter dated December 1, 1954, requested a hearing on the matters as promptly as possible. Additional efforts to negotiate a settlement failed and the Commission, by order dated April 17, 1958, ordered a hearing on the issues involved, including a determination of additional amount of annual charges, if any, for the use of the Indian Tribal land, as proposed in the application for a third unit. 22 F.P.C. 502, 505 (1959). The hearing was held June 24-30, July 9, and September 22-23, 1958. Montana Power Co. v. F.P.C., supra, 298 F. 2d at 336-337. After considering various theories, some of which recognized that the Tribes contributed only approximately 50% of the resources of the development, the hearing examiner in his initial decision awarded the Tribes an additional 50,000 annually. 22 F.P.C. 504 (1959). The initial decision of the examiner was adopted by the Commission on September 18, 1959 (22 F.P.C. 502) and sent, by letter dated September 28, 1959, to the Secretary of the Interior for his approval pursuant to the Act of March 7, 1928. On January 15, 1960 the Assistant Secretary for Public Land Management recommended to the Secretary of the Interior, and on January 22, 1960, the Secretary of the Interior approved, appointment of a committee from the Department of Interior to study the decision of the Federal Power Commission. This committee reported its

findings to the Secretary on February 18, 1960, Plaintiffs' Exhibit 54. The committee recommended a somewhat higher additional rental than that approved by the Federal Power Commission, using an approach which included as one of its key factors the proposition that the Tribes owned about 50% of the land and water resources contributing to the development. Id. The committee's exact words were the following:

> "The committee is convinced the Indians own approximately 50% of the overall power site which includes the power house site, the river to Flathead Lake and the south half of Flathead Lake, although documentation of this latter is lacking." Plaintiffs' Exhibit 54, p. 6.

The Tribes' ownership of the southeast one-half of the land underlying Flathead Lake was documented in United States v. 5,677.94 Acres of Land, 162 F. Supp. 108 (D. Mont. 1958).

The committee concluded that another 50-50 division of the value of the third unit was required because one-half of the value of third unit was attributable to the existing two units in conjunction with which it would be operated. Hence, the Tribes were credited with 25% of the value added by addition of the third unit. Plaintiffs' Exhibit 54, pp. 6-7.

On March 9, 1960 the Acting Secretary of the Interior wrote a letter to the Federal Power Commission adopting the committee's report. On May 19, 1960 the Federal Power Commission ordered a reopening of the hearing before the examiner so that the views of the Department of Interior could be taken into consideration. The hearings were reopened and were concluded on July 11, 1960. The examiner reaffirmed his initial opinion by opinion dated November 3, 1960. Thereafter, the Commission adopted the approach of the Committee of the Department of the Interior in a final decision dated January 30, 1961. The Commissioner's actions were affirmed by the United States Court of Appeals for the District of Columbia on January 25, 1962.

Footnotes to Finding No. 26 (Cont'd)

2/ 38 F.P.C. 766 (1967); Defendant's Exhibits 13-D-8.

3/ While the validity of the method used in 1930 for determining the commercial value for the Tribes' Site is not involved in this litigation, since the Tribes have made no effort either to allege or prove that they received less than their share of the commercial value other than as a result of the furnishing of power to the irrigation project, it is nevertheless worthy of note that the "profitability method" credited the Tribes only with profits retained by the license. The method adopted in 1930 by the Federal Power Commission and the Secretary of Interior for arriving at total commercial value included not only amounts retained by the company but also benefits passed out to the public through rates. Thus, the theory used by Mr. Scattergood for determining the commercial value of the Flathead project was more favorable to the Tribes than that adopted by the Federal Power Commission in its most recent decision in point. Likewise, Mr. Scattergood credited the Tribes with 50% of the total value thus derived, whereas the Commission credited the Tribes with only 42.13%.

4/ It is to be noted that the Federal Power Commission in this most recent decision relating to the Flathead development did not credit the Tribes with any interest in the water of Flathead Lake and Flathead River. Mr. Scattergood and others at the time of the issuance of License No. 5 credited the Tribes with their Winters Doctrine water rights consisting of some portion, considerably less than all, of the water power rights in the waters of the Flathead River and Flathead Lake: namely, water power sufficient to supply pumping of irrigation water. See Scattergood Report, Plaintiffs' Exhibit 58, p. 33. Failure by the Federal Power Commission to attribute any of the water power to the Tribes as distinguished from land value attributable to the presence of water power, may account for the fact that the Federal Power Commission only attributed 42.13% of natural resources to the Tribes, whereas Mr. Scattergood credited the Tribes with 50% of the natural resources involved in the development.

Mr. Van Scoyoc also testified for the Tribes at the hearing on the Readjustment of Rentals. It will be noted that his attribution of ownership of the land and natural water power at the dam site to the Tribes was specifically rejected by the Commission in favor of Sporseen's view that the Tribes owned only the land at the dam site. Sporseen and the Commission weighted the value of the land at the dam site heavily because of its critical location with relation to water, but the Tribes were not credited with ownership of the water or water power itself.

5/ 38 F.P.C. at 783. The following excerpts from the opinion deal with the question of the allocation of a portion of the value of the development to the Tribes:

> This brings us to considering the appropriate percentage of the commercial value of the Kerr project which should be allocated to the Tribes by virtue of the ownership of related lands and waters. Similar to the figures in the first step, there are widely varying recommendations ranging from 25 percent by Staff, Woy and Seymour to 57.53 percent by Van Scoyoc.
>
> Before describing the various methods, it is helpful to understand the three factors accounting for the value of the Kerr project. These three factors are the dam site (owned by the Tribes), Flathead Lake (the proprietary interest which is equally divided between the Tribes and Montana Power), releases from Hungry Horse, (respecting which neither Montana Power nor the Tribes have any proprietary interest). During critical water conditions, Kerr generation totals 1069 MW months: 161 MW months by Flathead Lake storage; and 657 MW months by Hungry Horse storage.
>
> The method used by Staff (which also forms a part of certain of the recommendations of other parties) is denominated as the sharing of net benefits method. This method assigns 50 percent to the developer for taking the risks associated with developing the site. The dam

site and Flathead Lake are considered as a unit. Since the Tribes own one-half of Flathead Lake, their portion is said to be one-half of one-half, or 25 percent of the net benefits. This was the method nominally followed by the Commission in the third unit case.

Three other methods have been suggested. Mohler began by assuming that the benefits should be apportioned based on the ownership of land and water. Since the Tribes own the land on which the project is located, he assigned the entire 50 percent attributable to land to the Tribes. He then determined that Flathead Lake represented 23.5 percent of the value of the project which is attributable to water. The Tribes' allocable portion of this 23.5 percent is 5.7 percent. This was derived by dividing 23.5 percent by one-half since Flathead was assumed to be on the water side of the equation, with another 50 percent reduction to reflect the Tribes one-half ownership of the lake.

Van Scoyoc also attempted to weigh the contribution of tribal lands and water with non-tribal lands and waters based on critical water conditions. Because the Tribes own 100 percent of the dam site, they are assigned 100 percent of the natural stream flow. Since the ownership of Flathead Lake is equally divided, he assigned 50 percent of the power value of Flathead to the Tribes. Finally, he divided Hungry Horse releases 50-50 because they flowed into Flathead Lake. To summarize graphically:

	MW Months		Tribes' share		
Kerr plant site	161	X	1.00	=	161.0
Flathead Lake	251	X	.50	=	125.5
Hungry Horse	657	X	.50	=	328.5
	1,069				615.0
	615	= .5753 or 57.53%			
	1,069				

Sporseen's approach is similar to the sharing of the net benefits in that it does not lump land and water rights. Sporseen attributed water rights to the Company on the basis of its proprietary interest, and land rights to the Tribes and Montana Power on the basis of their respective interests thereto. Like Van Scoyoc and Mohler, the basis of his computations is Kerr generation under critical water conditions. He segregated Flathead Lake from Kerr generation. The value of Kerr without Flathead is 818 MW months (161 MW months natural stream flow and 657 MW months from Hungry Horse), i.e., 68.5 percent of the total. The Tribes' share, based on 50-50 division between land and water is 34.25 percent. To this must be added one-half the value of Flathead; 50-50 split between land and water with a further 50-50 split to reflect the ownership of one-half of the lands. One-fourth of Flathead's power value of 376 MW months[9] or 31.3 percent of total Kerr is nearly 8 percent which, when added to the above-mentioned 34.23 percent produces his result of 42.13 percent.

According to the proponents, the sharing of the net benefits has the advantage of having been used before. In our view, there is very little else to be said in its favor. Indeed, Staff's briefs are almost silent on this issue. It is true this method was allegedly used in the third unit case. However, the Examiner's decision therein casts considerable doubt on that proposition (25 FPC 225, 229). Moreover, the use of that method was based on the Commission's use of it in determining annual charges a licensee should pay for sharing a government dam.[10] As Staff conceded at the oral argument, there is a world of difference between the government in such a situation and the Tribes here. The government maintains control over the dam and its project works. It continues to derive benefits from them. In contrast, the Tribes are completely without the use of these lands and derive no benefit other

9 He multiplied the value of Flathead by 1.5 to reflect its importance to Hungry Horse releases.

10 Kanawha Valley Power Co., Project No. 1290, Item F.

than the annual charges we assess. The reviewing Court apparently was not overly impressed with this method for it sustained the Commission on the basis of the end result--not the methodology.

There are further objections. Staff's method assigns 50 percent of the net value to the developer. Since we are using Van Scoyoc's profitability method, Montana Power's risks, such as they are, are fully reflected in the rate of return element of project costs which were deducted from the project revenues in determining the project's net benefits. Additionally, this method lumps the values attributable to natural stream flow, Flathead Lake and Hungry Horse, and fails to weigh the interests of each party in these three principal contributors to the Kerr Project.

The Secretary has shown the strange and illogical results this method can produce by applying it to other situations. (1) If the Tribes own all of the land underlying the generating site and lake bed, they receive half of the net benefits, and the Company receives half; (2) if, as in this case, the Tribes own all of the generating site land and half of the lake bed, they receive 25 percent of the net benefits and the Company 75 percent; (3) if the Tribes own all of the generating site lands but none of the lake bed, they receive one percent of the net benefits, while the Company receives 99 percent; (4) if the Tribes own none of the generating site lands but half of the lake bed, they receive 24 percent of the net benefits and the Company 76 percent; and (5) if the Tribes own none of the land underlying the generating site but all of the lake bed, they receive about 49 percent of the net benefits and the Company 51 percent.

In none of the situations described above does the Company own any land within the project. Yet it may receive from 50 percent to 99 percent of the net benefits. In the first three situations the Tribes own all the land underlying the dam and powerhouse. Yet they may receive from one percent to 50 percent of the net benefits. But in the last two situations, even though they own none of the power site lands, the Tribes may receive from 24 percent

to 49 percent of the net benefits. The unreasonableness, inconsistency, and inequity of these divers results are directly attributable to the failure in the method employed to properly distinguish between land underlying the dam and powerhouse and land underlying the lake bed.

With one exception, we believe Montana Power has expressed the most appropriate concept for making the allocation in its brief opposing exceptions. It there criticizes the allocations of Mohler as conceptually wrong because power value requires an inseparable combination of both land and water. The same criticism is also applicable to Van Scoyoc's method, at least insofar as it allocates the value of the dam site exclusively to the Tribes. Montana Power states: "If the combination of land water is to be used as a basis for sharing a net benefit, some grouping of land ownership and water associated with that land ownership must be made."

This is precisely what Sporseen has done, and we believe his method to be the most reasonable of those advanced in this proceeding. The only difference between what Sporseen did and what Montana Power argues relates to Hungry Horse. Sporseen included it. Montana Power would not on the basis that none of the land required to develop Hungry Horse storage is owned by the Indians and because headwater payments are made by the licensee. Regarding the latter, headwater payments were deducted in computing the benefits, so that point is not meritorious. Regarding the former, we think Hungry Horse should be included because the value of a parcel of realty depends not only on its intrinsic worth, but also upon its location relative to other realty. Thus, land adjacent to the intersection of two interstate freeways is more valuable for commercial purposes than an identical parcel of property on a little used secondary road. And the property on which Kerr is located is similarly more valuable by reason of its location relative to Hungry Horse. To close our eyes to Hungry Horse would be to fail to recognize the value of Kerr.

Accordingly we adopt Sporseen's 42.13 percent allocation figure which, when applied to Van Scoyoc's computation of profitability of $2,254,286 produces annual charges of $949,731, which we will round off to $950,000.00.

6/ See note 5, supra.

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IN THE UNITED STATES COURT OF CLAIMS

Docket No. 50233
Paragraph 13

THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONTANA,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

DEFENDANT'S REQUESTED FINDINGS OF FACT, OBJECTIONS TO PLAINTIFF'S PROPOSED FINDINGS OF FACT

Volume II

Shiro Kashiwa
Assistant Attorney General

John D. Sullivan
Attorney

REPAYMENT CONTRACT

BETWEEN

THE UNITED STATES OF AMERICA

AND

MISSION IRRIGATION DISTRICT

AS

APPROVED BY THE DEPARTMENT

OF THE INTERIOR

DECEMBER 16, 1927.

AND

OF

IN ACCORDANCE WITH THE

ACTS OF MAY 10, 1926 AND JANUARY 12, 1927

This agreement made this———— day of————————, 1928, in pursuance of the Act of April 23, 1904 (33 Stat., 302), and Acts amendatory thereof or supplementary thereto, and especially the Act of May 10, 1926 (44 Stat. 464-466) and the Act of January 12, 1927 (44 Stat., 945), and between the United States of America, hereinafter styled the United States, acting by the Secretary of the Interior, and such of the following Irrigation Districts as sign this agreement, i. e., the Flathead Irrigation District, the Mission Irrigation District, and the Jocko Valley Irrigation District, public corporations duly formed under the laws of the State of Montana, their respective successors and assigns, Witnesseth:

1. Whereas the said Act of May 10, 1926, entitled "An Act Making Appropriations for the Department of the Interior for the Fiscal Year Ending June 30, 1927, and for Other Purposes", provides among other things as follows:

For continuing construction, maintenance, and operation of the irrigation systems on the Flathead Indian Reservation, in Montana, by and under the direction of the Commissioner of Indian Affairs, including the purchase of any necessary rights of property, $575,000: Provided, That of the total amount herein appropriated not to exceed $15,000 shall be available for operation and maintenance of the project, the balance to be available for the construction items hereinafter enumerated in not to exceed the following amounts: Pablo Feed Canal enlargement, $100,000; Moiese Canal enlargement, $15,000; South Side Jocko Canal, $40,000; Hubbart Feed Canal, $7,500; Camas A Canal, $2,-500; continuing construction of power plant, $395,000, of which sum $15,000 shall be immediately available for additional surveys and preparation of plans: PROVIDED FURTHER, That no part of this appropriation, except the $15,000 herein made immediately available, shall be expended on construction work until an appropriate repayment contract, in form approved by the Secretary of the Interior, shall have been properly executed by a district or districts organized under State law embracing the lands irrigable under the project, except trust patent Indian lands, which contract, among other things, shall require repayment of all construction costs heretofore or hereafter incurred on behalf of such lands, with provision that the total construction cost on the Camas Division in excess of the amount it would be if based on the per acre construction cost of the Mission Valley Division of the project, shall be held and treated as a deferred obligation to be liquidated as hereinafter provided. Such contract shall require that the net revenues derived from the operation of the power plant herein appropriated for shall be used to reimburse the United States in the following order: First, to liquidate the cost of the power development; Second, to liquidate payment of the deferred obligation on the Camas Division; Third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the entire project; and Fourth, to liquidate operation and maintenance costs within the entire project. Provision shall also be contained therein requiring payment of operation and maintenance charges annually in advance of each irrigation season and prohibit the granting of a water right to or use of water by any individual for more than one hundred and sixty acres of land irrigable

under constructed works within the project after the Secretary of the Interior shall have issued public notice in accordance with the Act of May 18, 1916 (39 Statutes at Large, pages 123-130); all lands, except lands owned by individual Indians, at the date of public notice in excess of one hundred and sixty acres not disposed of by bona fide sale within two years after said public notice shall be conveyed in fee to the United States free of encumbrance to again become a part of the public domain under contract between the United States and the individual owners at the appraised price fixed at the instance of the Secretary of the Interior, such amount to be credited in reduction of the construction charge against the land within the project retained by such owner. All lands so conveyed to the United States shall be subject to disposition by the Secretary of the Interior in farm units at the appraised price, to which shall be added such amount as may be necessary to cover any accruals against the land and other costs arising from conditions and requirements prescribed by said Secretary: PROVIDED FURTHER, That trust patent Indian lands shall not be subject to the provisions of the law of any district created as herein provided for, but shall, upon the issuance of fee patent therefor, be accorded the same rights and privileges and be subject to the same obligations as other lands within such district or districts: PROVIDED FURTHER, That all construction, operation, and maintenance costs, except such construction costs on the Camas Division held and treated as a deferred obligation herein provided for, on this project shall be, and are hereby, made a first lien upon all lands within the project, which lien upon any particular farm unit shall be released by the Secretary of the Interior after the total amount charged against such unit shall have been paid, and a recital of such lien shall be made in any instrument issued prior to such release by the said Secretary. The contracts executed by such district or districts shall recognize and acknowledge the existence of such lien: PROVIDED FURTHER, That pending the issuance of public notice, the construction assessment shall be at the same rate heretofore fixed by the Secretary of the Interior, but upon issuance of public notice the assessment rate shall be 2½ per centum per acre, payable annually, in addition to the net revenues derived from operations of the power plant as hereinbefore provided, of the total unpaid construction costs at the date of said public notice: PROVIDED FURTHER, That the public notice above referred to shall be issued by the Secretary of the Interior upon the completion of the construction of the power plant.

2. And whereas the said Act approved January 12, 1927, entitled "An Act Making Appropriations for the Department of the Interior for the Fiscal Year Ending June 30, 1928, and for other purposes", provided, among other things, as follows:

For operation and maintenance, $25,000, to be immediately available: PROVIDED, That of the unexpended balance of the appropriation for this project for the fiscal year 1927, there is hereby reappropriated and made available for the fiscal years 1927 and 1928, $40,000 for construction of the South Side Jocko Canal, available when the Jocko Irrigation District shall properly execute an appropriate repayment contract, in form approved by the

Secretary of the Interior, which contract shall, except as hereinafter provided, conform to the conditions provided for a contract in the appropriation for this project for the fiscal year 1927: PROVIDED FURTHER, That of said unexpended balance there is hereby reappropriated and made available for the fiscal years 1927 and 1928 not to exceed the following amounts: Pablo Feed Canal enlargement, $100,000; Moiese Canal enlargement, $15,000; Hubbart Feed Canal, $7,500; Camas A Canal, $2,500; available when the Flathead irrigation district shall properly execute an appropriate repayment contract, in form approved by the Secretary of the Interior, which contract shall, except as hereinafter provided, conform to the conditions provided for a contract in the appropriation for this project for the fiscal year 1927; AND PROVIDED FURTHER, That the remainder of the unexpended balance of the appropriation for this project for the fiscal year 1927 shall at once become available, and remain available for the fiscal years 1927 and 1928, for continuing construction of the power plant when an appropriate repayment contract, in form approved by the Secretary of the Interior, and which, except as hereinafter provided, contains the provisions set forth for such a contract in the appropriation for this project for the fiscal year 1927, shall have been executed by a district or districts organized under State law embracing not less than eighty thousand acres of the lands irrigable under the project: AND PROVIDED FURTHER, Any contract provided for in this paragraph shall require that the net revenues derived from operation of the power plant shall be used to reimburse the United States in the following order: First, to liquidate the cost of the power development; Second, to liquidate payment of the deferred obligation on the Camas Division; Third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the district or districts contracting; and Fourth, to liquidate operation and maintenance costs within such district or districts.

3. And whereas the United States is and has been constructing an irrigation and power system for the benefit of lands in said Flathead Reservation embraced within its project for that purpose, and has been and is operating the same, and now under said two Acts last mentioned and hereinabove in part quoted, and under such future appropriations as may be made therefor by Congress, contemplates carrying on and completing said system through the aid in part of the Irrigation Districts which are parties hereto, which Districts together embrace all or nearly all of the lands included in said project except trust patent Indian lands, and as to these contemplates their inclusion as and when they shall be patented in fee.

4. And whereas the works of said project already constructed by the United States have not been paid for as yet by the owners of the lands to be benefited, and also certain charges for the operation and maintenance of said works remain unpaid, and it is among the purposes of the formation of the aforesaid districts severally to provide for the payment of all such charges, and all charges of every nature in connection with said project in so far as said project lands are included within the said districts respectively, and otherwise to assist the United States in carrying on and completing said project.

NOW THEREFORE, In order to carry out the purpose of the aforesaid Acts of Congress and in consideration of the covenants herein contained, it is agreed by each of said districts signing this contract and by the United States with each of said Districts which sign the same, as follows:

5. Unless and until he shall in the future turn over the management thereof, the Secretary of the Interior shall have control and management of said project and all of the works and rights thereof. He shall distribute the water of said project between said districts and the lands thereof, and to lands remaining or being placed outside of said districts, and to lands remaining in said districts but not designated by him as being assessable thereunder; and he shall, from time to time, fix the duty of water for said lands and all of them, and shall apportion the water between them in times of shortage. He shall have full power to improve and extend the existing works of said project and build new works including pumping plants and either or both a power plant and or an electric transmission line, and to apportion the cost thereof between the said Districts or otherwise as he shall think equitable and proper, provided only that the limit of costs for any and all of said works, and the construction charges for said project as assessed against each of said Districts and the lands therein shall not exceed those hereinafter provided for or those which hereafter may be agreed upon between the Districts involved and the said Secretary. The Districts executing this contract severally agree to aid the said Secretary and his agents in deciding questions of policy concerning said project, including those as to construction of works, by their advice and recommendations volunteered by them or made at his request.

6. The Secretary of the Interior shall have full power to designate the lands in each of said Districts which shall be subject to construction and other charges on account of said project, and no lands not so designated by him shall be assessed by any of the said Districts therefor; and no lands shall hereafter be included in or excluded from any of said Districts without the approval of the Secretary of the Interior, and none of said Districts shall incur any obligation, except for ordinary administrative expenses, without his approval.

7. Trust patent Indian lands, and any other irrigable land on the Flathead Reservation irrigated under said project, embraced within the exterior boundaries of any of said Districts, shall be included in the District within which they are embraced when the fee patent therefor shall issue upon the petition of the owner or owners thereof, and when so included shall enjoy all of the benefits of said Districts and shall be subject to the obligations thereof, and until so included shall bear their proportionate share of construction and operation and maintenance costs as shall be determined by the Secretary of the Interior.

8. The United States retains in full force all obligations and liens of, against or upon all and any lands in said project whether contained in any of said Districts or not, and of and against the owners thereof for construction

and operation and maintenance charges, which it has by virtue of any and all laws, contracts or agreements heretofore made, or otherwise, and retains and shall have the full right to enforce the same by shutting off water or otherwise as it shall see fit.

9. The Secretary of the Interior is hereby authorized and empowered, in so far as the Districts executing this contract may authorize the same, to construct, operate, maintain, improve and extend the power plant authorized by the Act of May 10, 1926, aforesaid, together with such accessory works, including a proper transmission line and pumping plants, as he shall deem proper and concerning which he may be authorized by law to act; or to consent to the licensing by the Federal Power Commission of a corporation or corporations to build, operate and maintain said plant, transmission line or other works or any part thereof, instead of or in connection with his building the same or any part thereof himself; and, in connection with the licensing aforesaid, to permit the use of water and other rights and privileges appropriated or reserved for said project for power purposes, all upon such terms, designed to secure ample and cheap electrical power for pumping water for irrigation and other project purposes, and for sale, and to aid in paying project construction and other charges as contemplated by said quoted statutes, as the said Secretary may deem proper. The Secretary of the Interior is further authorized to purchase any and all sites, rights of way and other rights and privileges needed in carrying out the provisions and purposes covered by this paragraph.

10. Within the limits of cost hereinafter fixed for the several Districts, depending in each instance upon their signing this contract, the United States will make such improvements and extensions of the irrigation system of such project and such power development in connection with the same as or may be authorized and appropriated for by Congress; but to the extent only that the Secretary of the Interior may determine the same to be feasible and for the best interests of said project and the Districts and lands affected.

11. Construction costs, repayment of which is provided for by this contract, shall embrace all expenses of whatever kind incurred by the United States on account of said project, except the deferred obligations of the Camas Division, and shall include all accruals and unpaid operation and maintenance costs and penalties which Congress may authorize to be consolidated with construction charges, and shall include the cost of labor, material, equipment, engineering, legal work, superintendence, administration, overhead, rights of way, property, electrical energy, and damages of all kinds; and to determine the amount of such costs, the books and records of the United States relating to the Flathead Irrigation Project, subject to the approval of the Secretary of the Interior, shall be accepted as conclusive, and such costs, unless and until greater costs are agreed to by future contracts, shall be limited, within the Flathead Irrigation District, to $65.00 per acre of land designated by the Secretary of the Interior as irrigable and assessable under said Project; within the Jocko Valley Irrigation District to $40.00 per acre of such land; and within the Mission Irrigation District to $65.00 per acre

of such land; provided, however, that the work proposed to be done within the limits of the costs herein fixed and within appropriations of funds therefore by Congress, shall include the following principal features: for the Camas Division of the project, completion of the Hubbart Feed Canal, enlargement of Dry Fork Reservoir, betterment work on the Camas A Canal and lateral system; for the Mission Valley Division of the Project, construction of Mission, Kickinghorse, Lower Crow, and Twin Reservoirs; completion of the Ninepipe reservoir, enlargement of Tabor and Pablo reservoirs, construction of the Crow Creek Canal, completion of the Dry Creek Lined Canal, and the Ninepipe Feed Canal, enlargement of the Pablo Feeder Canal and the Moiese A Canal, extension of the lateral system to approximately 12,000 acres of land, replacement of wooden structures on laterals, construction of pumping plants, purchase of reservoir sites and power development and transmission lines; and for the Jocko Valley Division of the Project, construction of diversion dam for Jocko Lateral K, replacement of wooden structures on the lateral system, extension of the lateral system, construction of the south side Jocko Canal, concrete lining for laterals, construction of pumping plant to supplement the gravity water supply for lands under the Revais Creek lateral; provided, however, that said Secretary of the Interior shall not expend on the work to be done within the respective districts any sum in excess of the limitation to be reimbursed as provided for unless and until such district or districts shall by future agreement or agreements provide for the reimbursement of such proposed additional expenditures in excess of said limitations for the respective districts.

12. Within the limit of costs thus fixed, each of said Districts agrees to repay to the United States all construction costs heretofore or hereafter incurred on behalf of lands thus designated within its boundaries, and agrees that the decision of the Secretary of the Interior as to the proper apportionment of such, and any and all charges between the several Districts and between lands within said Districts and lands in said project remaining or being placed outside of said Districts, and between trust patent Indian lands and other lands in said project, shall be final; provided, however, that the total construction costs of the Camas Division of said project in excess of the amount it would be if based on the Mission Valley Division of said project, shall be held and treated as a deferred obligation to be liquidated as hereinafter provided, and also that all power revenue received from said project shall be used as hereinafter provided. The net revenues derived from the operation of the power plant or power transmission line, or both, or from the sale of power and from the rentals of power sites or interests therein, and from the rentals of the Newell Tunnel and water rights held for power purposes, and from the rentals or revenues derived from power development of any sort made by or on account of said project, shall be used to reimburse the United States in the following order: First, to liquidate the cost of the power development; Second, to liquidate the payment of the deferred obligation on the Camas Division; Third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the entire project to the extent that said lands shall be designated by the Secre-

tary of the Interior as subject to the obligation to pay for and be assessed on account of the cost of such power development; and Fourth, to liquidate operation and maintenance costs of lands within said project and obligated and assessable thereunder. Any sum which may be received by the United States in repayment of its investment of about $101,000 to build the Newell tunnel, shall be credited to the United States or to said project as Congress or the Secretary of the Interior shall direct.

13. Payment of operation and maintenance charges shall be made annually in advance of each irrigation season; and no water right shall be granted to, or (subject to the provisions of paragraph 17 hereof) the use of water permitted (except in the discretion of the Secretary of the Interior or his agents if so authorized by future legislation), by any individual owning more than one hundred sixty acres, for his acreage in excess of one hundred sixty acres of land irrigable under construction works within the project after the Secretary of the Interior shall have issued public notice in accordance with the Act of May 18, 1916 (Statutes at Large, pages 123-140); all lands, except lands owned by individual Indians, at the date of public notice in excess of one hundred sixty acres not disposed of by bona fide sale within two years after said public notice shall be conveyed in fee to the United States free of encumbrance to again become a part of the public domain under contract between the United States and the individual owners at the appraised price fixed at the instance of the Secretary of the Interior, such amount to be credited in reduction of the construction charge against the land within the project retained by such owner, provided, however, that amounts so received in excess of the unpaid construction charges against said remaining lands shall be paid to the individual whose lands are sold.

14. All lands so conveyed to the United States shall be subject to disposition by the Secretary of the Interior in farm units at the appraised price, to which shall be added such amount as may be necessary to cover any accruals against the land and other costs arising from conditions and requirements prescribed by said Secretary. Trust patent Indian lands shall not be subject to the provisions of the law of any of said Districts, but as hereinabove provided, upon the issuance of fee patent therefor if included in the Irrigation District or Districts, shall be accorded the same rights and privileges and be subject to the same obligations as other lands within such District or Districts. All construction, operation and maintenance costs, except such construction costs on the Camas Division held and treated as a deferred obligation herein provided for, on said project, shall be and are hereby made a first lien against all lands within the project, which lien upon any particular farm unit shall be released by the Secretary of the Interior after the total amount charged against such unit shall have been paid, and a recital of such lien shall be made in any instrument issued prior to such release by the said Secretary. The said Districts do hereby recognize and acknowledge the existence of such lien. Pending the issuance of public notice, the construction assessment shall be at the same rate heretofore fixed

by the Secretary of the Interior, but upon issuance of public notice, the assessment rate shall be 2½ per centum of the balance unpaid of the construction cost per irrigable acre, payable annually in addition to the net revenue derived from operation of the power plant or derived otherwise from power development as hereinbefore provided, of the total unpaid construction costs against each unit or legal subdivision at the date of said public notice, and payments shall continue at that rate until all construction charges and costs incurred after as well as before the issuance of said notice shall have been paid in full. The public notice above referred to shall be issued by the Secretary of the Interior upon completion of the construction of the power plant, or, if said power plant shall not be built by the Secretary of the Interior, said notice shall be issued on November 1st, 1928, or on such other date as may be fixed by law or by the written order of the Secretary of the Interior.

15. Operation and maintenance charges not consolidated with construction charges as hereinabove provided for shall be paid as now provided by law and by rules made or to be made thereunder by the Secretary of the Interior. Operation and maintenance charges shall be determined and apportioned by the Secretary of the Interior, and in apportioning the same, the said Secretary, if he deems it wise, may make different charges for lands in the different parts of the project, i. e., the Camas Division, the Jocko Division and the Mission Division, or for any part thereof.

16. The Secretary of the Interior shall have full power to refuse to designate as lands to be retained in and be assessable under the said Irrigation Districts or any of them, or to enjoy the benefits of lands within said Districts and the future developments of said project and the benefits to be enjoyed under this contract, any lands in excess of one hundred sixty acres, the owners thereof refuse or fail to enter into a contract with the Secretary of the Interior for the disposal of such excess holdings as hereinabove provided for; or any lands the owners of which now claim, decreed or fully or partially paid-up water rights for, and who refuse or fail to agree by contract with the Secretary of the Interior that their lands shall be brought into or retained in the District within the exterior boundaries of which their lands are or may be included, and shall be subject to all obligations of lands in said District; provided, however, that if the Secretary of the Interior shall find it feasible so to do, he may consent to the admission of such lands upon terms that he deems just and equitable.

17. Each of the said Irrigation Districts promises and agrees that it will levy annual assessments against the lands within its borders, designated by the Secretary of the Interior as assessable as hereinabove provided, in such amounts that the total thereof shall not be less than the aggregate amount of the obligations due or estimated by the Secretary of the Interior or his agents to become due the United States, and from time to time as occasion may require will cause to be done whatever may be legally necessary to be done by it or its officers and agents in order to procure and insure in each year the due assessment, levy and collection of an amount sufficient to

discharge all obligations of this contract, and will comply promptly with all the provisions of the laws of the State of Montana for the assessment, levy and collection of taxes necessary to carry out this contract.

18. Pursuant to the provisions of Section 3 of the Act of May 15, 1922 (42 Stat., 541), unentered public lands and entered lands for which no final certificate has been issued, located within the said Districts or any of them are hereby designated as subject to the provisions of the Act of August 11, 1916 (39 Stat., 506): provided, however, that unentered public lands and vacant unsold state school lands, while in that status, shall not be assessed by the Districts or any of them for any purpose.

19. The United States reserves the right to refuse to deliver water to any District or individual landowner, in the event of the default by that District or landowner for a period of more than one year in any payment due the United States under this contract. The provisions of this paragraph are not exclusive, and shall not in any manner hinder the United States from exercising any other remedy to enforce collection of any amount due hereunder.

20. If the Secretary of the Interior shall find any lands within any of said Districts temporarily incapable of successful cultivation under irrigation, on account of seepage, alkaline conditions, or for any other reason, if he thinks proper, he may exempt the land from the payment of construction and operation and maintenance charges, for such lands for a specified period, or until further notice, whereupon the District shall exempt from assessment and levy the lands so specified during the period named. If the Secretary of the Interior shall find any such lands permanently incapable of successful cultivation on account of seepage, alkaline conditions or for any other reason, he may, in his discretion, with the consent of the landowners concerned, contract with the District for severance of the water rights from the same, and for such rights becoming appurtenant to other lands within the District, or to lands which, by appropriate proceedings, are brought within the District. No suspension of any charges shall be made by the District without the consent of the Secretary of the Interior.

21. Title to all works and rights in connection with said project now existing in the United States shall so remain unless and until otherwise provided by law.

22. The proper officials of the Districts, parties hereto, shall have full and free access to the project books and official records of the United States Indian Irrigation Service, so far as they relate to the matters covered by this contract, with the right at any time during office hours to make copies of and from the same; and the representatives of the United States shall have the same right in respect to the books and records of said Districts.

23. There is given and reserved to the Secretary of the Interior the right to make regulations and to modify the same in his discretion, in general harmony, however, with this contract, to the end that the true intent of the law and of this contract shall be carried into full effect.

24. While this contract is in effect no change shall be made in the organization of the Districts or any of them, by consolidation or merger with another District, by proceedings to dissolve, or otherwise, nor as above provided shall lands be excluded from or included in the said Districts, except upon the written assent thereto by the Secretary.

25. The execution of this agreement shall be authorized by the qualified holders of title or evidence of title to lands of the said Districts as provided by law. Thereafter, without delay, the Boards of Commissioners of the Districts shall levy a special tax or assessment on all the lands of the Districts for the benefit of which said Districts were organized, sufficient in amount to pay all sums agreed in this contract to be paid by the Districts to the United States, and if directed so to do by the Secretary of the Interior shall prosecute a proceeding in court for a judicial confirmation of the organization of the Districts, the making of this agreement, and the confirmation of a special tax or assessment sufficient in amount to carry out the terms and conditions of this agreement. The United States shall not be obligated to make any expenditure hereunder, until a confirmatory judgment in such proceeding shall have been rendered; and, if ground for appeal from such judgment shall have been laid, until decision favorable to the contract shall have been finally made. The Districts shall furnish the United States, for its files, certified copies of all proceedings relating to the organization of the Districts and to the authorization of this agreement.

26. No member of or delegate to Congress, or resident commissioner, after his election or appointment, or either before or after he has qualified and during his continuance in office, and no officer, agent or employee of the Government shall be admitted to any share or part of this contract or agreement, or to any benefit to arise therefrom. Nothing, however, herein contained shall be construed to extend to any incorporated company, where such contract or agreement is made for the general benefit of such incorporation or company, as provided in Section 116 of the Act of Congress approved March 4, 1909 (35 Stat., 1109).

This agreement shall inure to the benefit of and be binding upon those of the aforesaid Irrigation Districts which execute the same, and their successors and assigns, and the United States and its assigns.

BEFORE THE REPAYMENT COMMISSION OF THE DEPARTMENT OF THE INTERIOR,
AT MISSOULA, MONTANA,
DECEMBER 13, 1937

The Flathead Irrigation District, The Mission Irrigation District, The Jocko Irrigation District, Flathead Water Users' Association —Petitioners.	**In the Matter of Construction Charge Adjustments**

STATEMENT OF FACTS

The above named petitioners represent the white owned lands of the Flathead Irrigation Project. By Act of April 23, 1904, Congress provided for the allotment of certain tracts of land to the Indians of the former Flathead Indian Reservation, and for the settlement, under the homestead laws, of the remainder of the lands of that reservation. By Act of April 30, 1908, provision was made for preliminary surveys looking toward the irrigation of both the allotted and the unallotted land, and in the Act of March 3, 1909, a quarter million dollars was appropriated to begin construction of an irrigation project to cover about 138,000 acres.

In the year 1910 a lottery was held by the Department of the Interior, and the registrants in that lottery, up to a certain number, were accorded the privilege of selecting for homestead, a tract, or farm unit, each, from the unallotted lands of the former reservation, in the order in which their names were drawn. All the unallotted lands were quickly taken and settled upon. This settlement was preceded by high-power advertising from many sources through which the settler was led to believe that he was securing an irrigated farm under the capable administration of the government. That was the lure which brought them. Nothing was done to disillusion them.

By Act of May 18, 1916, making further appropriations, provision was made for a lien upon all the lands of the project for the repayment of the costs of construction and for the collection of such costs over a period of twenty years, collections to begin whenever the Secretary of the Interior should issue public notice announcing the cost per acre. At this point let us note that the settlers were obliged to pay the Indian Tribe the appraised price for the land which they acquired under the homestead laws, in addition to complying with those laws and the reclamation laws, with respect to improvements and preparation for irrigation, etc. About 1920 the Secretary of the Interior began to assess construction costs at the rate of 50cts per acre per year. A good part of those assessments were paid at that time, at terrific sacrifice to the settlers.

During all this period the settlers, many of whom had

to give up their farms and go away to work for wages, were pleading with the government to go forward with the completion of the irrigation project so they could settle into some substantial method of farming. They had grown weary and gone broke trying to carry on an irrigation type of farming without water. In the year of our Lord 1937 they are still attempting that very thing, and they are growing more weary and more thoroughly broke each year.

Under those conditions, the Chairman of the sub-committee on Interior Appropriations of the House visited the project in 1925, and spent three or four days conferring with settler groups.

At the time of this visit, fourteen years after the settlement of the project and sixteen years after the beginning of construction, there was not sufficient water capable of delivery to irrigate twenty thousand acres out of the 138,000 acres of the project. Before the Chairman returned to Washington, it was understood that the settlers would organize irrigation districts and execute repayment contracts, in consideration of which, the United States would carry on an orderly program of completion to cover about a five year period. This program was to include a power plant to develop electrical energy, together with a pumping plant to supplement the gravity supply of water. The contracts to be executed were to provide for the repayment of all costs at the rate of two and one-half percentum per annum per acre of the per acre costs at the time of the issuance of public notice. The public notice was to be issued upon completion of the proposed power and pumping development.

Notwithstanding much misgivings on the part of the settlers, the required contracts were executed. Instead of an orderly program of completion covering about five years, this project still lacks nearly two million dollars of completion, and the pumping plant, which was to go in as one of the first items, is just now being started.

In the repayment contracts above referred to, provision was made that the net revenues to be derived from the power plant therein proposed, through the sale of surplus power not required for pumping, should be applied: "First, to liquidate the cost of power development; second, to liquidate payment of the deferred obligation on the Camas Division; (This is a suspended account resulting from excess cost on that division); third, to liquidate construction cost on an equal per acre basis on each acre of irrigable land within the district or districts contracting; and fourth, to liquidate operation and maintenance costs within such district or districts." It should be noted especially that the power plant then proposed was primarily for the purpose of supplying power for pumping. It was proposed to build a plant to develop about 8,000 HP. It was not expected that there could be any large surplus of power to sell. It was not

from this business be used in such a way as to redound to the benefit of those now living, there will be a constant clamoring for lower rates. There could be no more practical, no more just, no more economically sound, method in the premises than to continue electrical rates at a reasonable level, where they will produce satisfactory revenues, and then use those revenues to help land holders to pay their construction tax. Such a course will remove the stigma from a business which pays no tax itself yet operates to exclude some one who would be required to pay taxes.

Classification of Lands

During the year 1929 the lands of the Flathead Project were classified by a commission appointed by the Secretary of the Interior for the purpose of determining the ability of the different types and tracts of land to assume project cost.

The commission classified the lands into four classes with the tentative understanding that lands of the second class should not be required to assume construction charges until such time as they should be re-examined and found to be suitable to be placed in class one, that third class lands should not be required to pay either construction or operation and maintenance charges until they should be re-examined and found to be suitable to be placed in class one or two, and that class four should be eliminated from the project.

About the time this classification was authorized, a bill was introduced in Congress providing for classifications similar to that outlined above. The law authorizing your commission is no doubt a development from that bill.

PETITION

WHEREFORE YOUR PETITIONERS RESPECTFULLY URGE:

That your Honorable Commission find the facts relating to the Flathead Irrigation Project as set forth above; and that your Honorable Commission recommend to the Honorable the Secretary of the Interior and to the Congress of the United States:

That the Secretary of the Interior be authorized (with the consent of the irrigation districts on the Flathead Irrigation Project) to modify the terms of repayment contracts so as to require the first payment of construction charges on said project to be levied and assessed against the lands of said project, which shall at that time be chargeable for such costs, during the fiscal year following the delivery of water for a full season to project lands from the pumping plant now in course of construction on Flathead River.

To assess construction charges against the lands of the said project only which have been heretofore classified as first class lands by the Flathead Classification Commission

under the direction of the Secretary of the Interior—lands which have been classified inferior to first class by said commission to be assessed for construction only after they shall have been re-examined and found to be suitable to be classed as first class lands.

To provide that one-half of the net revenues from power development be applied in reduction of construction charges against the lands of the irrigation project—the revenues accruing each year to be applied in reduction of the assessment made next following.

That the remaining one-half of net revenues from power development, after suitable deductions shall have been made to provide for replacements and depreciation on the power system, shall be applied in liquidation of the cost of construction of the power system and of the excess costs on the Camas Division, as now provided by law and contract, until the same shall have been fully liquidated; and that thereafter all net power revenues, after suitable deductions for replacement and depreciation, shall be applied in reduction of construction charges against the lands of said project, provided that whenever such net revenues shall be more than sufficient to liquidate the construction charges for one year, then the balance shall be applied in reduction of the operation and maintenance charge against project lands.

The foregoing is respectfully submitted to the Repayment Commission and to the Honorable the Secretary of the Interior.

Witness our hands this 13th day of December, 1937.

D. A. DELLWO,
Secretary, Flathead Irrigation District.

FRED E. DENNY,
Vice-president, Flathead Irrigation District.

RAY BIGGERSTAFF,
Secretary, Mission Irrigation District.

G. E. LENSMAN,
President, Mission Irrigation District.

CLARK RENTFRO,
Secretary, Jocko Irrigation District.

H. H. FRANCIS,
President, Jocko Irrigation District.

LEON THOMAS,
Secretary, Flathead Water Users' Association

LEROY JOHNSON,
President, Flathead Water Users' Association

78TH CONGRESS } SENATE { REPORT
1st Session } { No. 310

SURVEY OF CONDITIONS AMONG THE INDIANS OF THE UNITED STATES

Mr. Collier

ANALYSIS OF THE STATEMENT OF THE COMMISSIONER OF INDIAN AFFAIRS IN JUSTIFICATION OF APPROPRIATIONS FOR 1944, AND THE LIQUIDATION OF THE INDIAN BUREAU

JUNE 11 (legislative day, MAY 24), 1943.—Ordered to be printed.

Mr. THOMAS of Oklahoma, from the Committee on Indian Affairs, submitted the following

PARTIAL REPORT

[Pursuant to S. Res. 17 extending S. Res. 79, 70th Cong.]

Pursuant to Resolution 79, Seventieth Congress, and subsequent continuing resolutions, and within the limits of its authority, the subcommittee of the Senate Committee on Indian Affairs has conducted its survey and investigations generally among the Indians and the various Indian tribes of the United States, and in pursuance of such survey and investigations the subcommittee has visited and held hearings within every Indian agency jurisdiction in the continental United States and Alaska.

AN ANALYSIS OF THE COMMISSIONER OF INDIAN AFFAIRS' STATEMENT IN DEFENSE OF INDIAN BUREAU ACTIVITIES DATED MARCH 31, 1943

In a mimeographed statement, under date of March 31, 1943, made to the subcommittee of the Committee on Appropriations, House of Representatives, in its recent hearings, the Commissioner of Indian Affairs purported to furnish data on the functioning of the Indian Bureau and in justification of appropriation requests for the Bureau.

Both the accuracy and the motives of the statement should be submitted to careful scrutiny at this time when the consideration of priority of values in Government enterprises is so necessary to the successful accomplishment of the war effort.

★

In the following, Mr. Collier's significant assertions are noted one by one and are submitted to some analytical comment in each instance:

(1) Mr. COLLIER. If our present estimates are granted by Congress, Indian Service will cost $69 per annum per Indian in the coming fiscal year.

COMMENT

All of Mr. Collier's per capita estimates of expenditures are based on the assumption that there are 400,000 Indians under the Bureau, including 32,000 in Alaska. Under any rational definition of an Indian, there is nowhere near this number of Indians in the United States in the first place, and, in the second place, only a small proportion of this number is in any way dependent upon the Bureau. This grand total of 400,000 has been built up by estimates to make the appeal for appropriations more impressive, just as it is being used in this case. More than 100,000 Indians have been added by estimates within the past 10 years. In the report of the Secretary of the Interior for 1934, page 121, the following paragraph is quoted:

> The total of estimated and enumerated number of Indians thus reported in 1934 was 327,948. This number consists of 234,792 Indians actually enumerated and 93,166 Indians taken from earlier or special censuses and estimates based on records. For convenience, the latter number will be considered hereafter as an estimate.

During the 4 years following 1936, the estimate was again increased by 33,858 and was reported at the head of table III, statistical supplement to the annual report of the Commissioner of Indian Affairs for 1940 as 361,816 Indians in the United States.

Examining the above statistical summary, table III, further, we find many estimates, for instances: Sacramento Agency, in California, has 1,560 enumerated Indians and estimated unenrolled Indians, 10,294; Mission Agency, Calif., enumerated Indians, 3,017, estimate of unenrolled Indians, 4,000; Navajo Agency in Arizona, estimated unenrolled Indians, 3,000; Great Lakes Agency, Mich., enumerated Indians, 1,704, estimated unenrolled Indians, 3,000.

Even the so-called enumerated Indians are enumerated only in the sense that they once appeared on some allotment, per capita, or treaty enumeration roll. Many thousands of them have now been merged completely with the white population or are scattered over the face of the globe. A recent survey of the 200 Indian families, so-called, scattered through several counties in southwest Oregon, showed that 92 Indian women have white husbands and 61 Indian men have white wives—in the 200 families. Nearly 7,000 of the 14,000 "enumerated" Indians under the Consolidated Chippewa Agency in Minnesota do not live in the so-called Indian country but are scattered over the United States and possessions and are merged with the general citizenry of the country. This is true of the "enumerated" Indian under most agency jurisdictions, excepting part of the Southwest. The New York Indians to the number of 6,861 are included in the "enumerated" Indian population of the United States, though they have always been under the sponsorship of the State of New York, and recent surveys have shown that there is nowhere near 6,861 of them. Why should they be used in an attempt to increase congressional appropriations for the Indian Bureau, especially when Federal funds are so badly needed in the war effort?

Scores of other instances could be given to show that the 400,000 Indian population estimate is totally devoid of statistical value for the purpose intended. Though all Indians, even 400,000 are considered wards of the Government, it is certain that the Indian Bureau has no effective contact with half that number, and no right to claim them as justification for increased appropriations.

Since the Indian Bureau has built up the Indian population to 400,000 on paper and then assumes that appropriations and disbursements are for that number, it gets $69 per capita, a preposterous conclusion.

(2) Mr. COLLIER. Mr. Mundt states that Indian Service spends $100 a year per Indian in "regulating" the Indians. Then he asks, what part of the $69 is spent in "regulating" the Indians, and answers himself: Just two items—60 cents a year per capita is spent on law and order and $11 per capita on the other "regulatory" item, administration of Indian property which is the only extravagance or waste of the Indian Service, and it could be stopped by legislation.

COMMENT

Mr. Collier calls law and order one of the two "regulatory" items of the Bureau over the Indians, yet it is not nearly as "regulatory" as Indian credit through the revolving loan fund, or land use under extension, or Indian organization under the Indian Reorganization Act, or the administration of inheritance, or irrigation, or forestry, and other Bureau functions. He compares the expenditures for law and order under the Indian Bureau with $3.29 per capita in Puerto Rico in 1941. Even if the 60 cents had any real significance, what is gained by comparing it with "regulatory" expenditures under Tugwell in Puerto Rico?

The amount spent by the Indian Bureau for law and order does not represent the cost of that function by any means. The vast majority of Indians are under and amenable to the same laws as other citizens and the costs of law and order should be included where they belong. Law and order under the Indian Bureau is usually an unnecessary supplement confusing the real issues.

The only solution to the other of the Commissioner's "regulatory" items, the administration of Indian property, is a transfer of the Bureau functions to corresponding Federal agencies: Indian forestry and grazing to the national forest, Indian land to the United States Land Office, Indian irrigation to the Reclamation Service, and so on.

The solution to the inheritance tangle in allotted land is to transfer title from the Federal Government to the individual Indian as was long promised, and then allow usual procedures in settling estates. So long as the Federal Government holds effective title to Indian real estate and refuses to permit the usual procedures to operate in the settlement of estates, the fractionating process must continue to the ultimate elimination of all Indian titles. Mr. Collier admitted in the House hearings on the 1938 appropriation bill that deceased Indian land could be sold and the estates settled, but he was opposed to such means, which appear to be the only means, and are those used in every State in the Nation settling estates not devised by will.

We cannot agree that this administration of Indian property "is the only extravagance or waste of Indian Service," but we do agree that it could be stopped by such legislation as conditions show to be necessary—by putting Indian property in the same status as that of other citizens.

(3) Mr. COLLIER. The $69 per year of Government money provides the Indian with all those services—schooling and adult education, public health and hospital and domiciliary medical care, social welfare, relief of the infirm and old and orphaned, public works, and law enforcement service, which the Federal, State, municipal, and county governments plus the private charities supply to the white people and which never were rendered by the States.

Educating the Indians in good schools, curing them in good hospitals, furnishing them agricultural credit, helping them to save their timberland from fire and their farm and range land from erosion are not "regulating" the Indians. Cutting the death rate from 27 per 1,000 per year 16 years ago to 13 per 1,000 now, is not "regulating" the Indians.

COMMENT

What astounding statements! Either Mr. Collier does not know what he is talking about or else he is deliberately attempting to deceive Congress and the people. He must know that most States administer social security, social welfare, relief of old, infirm, and orphaned, for Indians as well as for other citizens, and that without cooperative payments from the Indian Bureau, and that many States cooperate in such matters; that emergency conservation work, beginning about 1933, put about $10,000,000 annually under Bureau supervision for work relief for Indians, and that Farm Security, rehabilitation, and other Federal and State reliefs were contributed; that the public school bears far more than half the cost of educating Indian children; that mission schools have thousands of Indian children without cost to Bureau or Government as a part of "the private charities supplied to white people"; that private charity and foundation supply much educational and health service to Indians. In fact, the Indian Bureau contribution to real Indian welfare is comparatively small and out of all proportion to that part which goes to the support of the Bureau.

Why should he claim credit for reducing the Indian death rate over the past 16 years? It must be observed that during that 16-year period the basic Indian population was greatly increased on paper by "estimates" which may well account for a major part of the apparent decrease. Using a 16-year period, it is quite possible that the Indian death-rate decrease was well under way before the present Commissioner attacked the problem.

(4) Mr. COLLIER. I give you just two examples of how our Government compelled the Indians into poverty—(a) forced land allotment, and the fee-patenting of allotments and the sale to whites of heirship lands, thus losing to the Indians 90,000,000 acres between 1888 and 1933. (b) And through those same years, the land which still the Indians were allowed to keep became gutted by erosion.

Then he continues with some of his famous "estimates" and assertions.

In many other ways, by many other procedures, the Government plunged the Indians into their "extreme poverty" and ran their death rate up.

COMMENT

Mr. Collier's two examples of how our Government compelled the Indians into poverty are not very convincing when separated from the mere assertions which have slogan appeal. It is true that vast areas were allotted to the Indians from much vaster areas held by them. For instance, the Indians on a treaty reservation might have allotted to them—each man, woman, and child—160 acres of land of their own selection. Always the Indians were allowed to make their

selections of allotments before the excess lands were opened to other settlement. Then by agreement with the Indians, the unallotted portion of the reservation might be opened to non-Indian settlement, the Indians to be paid an agreed price per acre. The money for these lands thus alienated to the Indians went into the United States Treasury (generally) in trust for them, and even now such fund forms a large part of the $67,000,000 trust fund which furnishes an excuse for the continued existence of the Bureau. But neither these surplus lands nor the later patented allotments were lost by the Indians; they were sold by the Indians. The granting of patent in fee to the Indians was a simple act of justice and according to the Government promise. If the Indian sold his patent in fee land, that was his right as a free citizen. The same thing happens in white pioneer settlement. Lands, whether pioneer settled or purchased later, remain in the same family only one generation on the average. Was it not as well for the Indian to sell his land as to hold it in idleness or lease it under Government supervision and at Government expense as so many of them do now? This land was not lost to the Indians any more than have been the millions of acres sold by non-Indians during the same period. There is no more justice in tying an Indian to a piece of land than there would be in selecting a group of whites or other racial group for such forced tenantry and handicap in freedom or movement. From choice, Indians are not more frequently farmers and stockmen than whites, and those who really wish to farm or raise stock need no more supervision than others. As to the selling of the heirship land to whites, that was done to settle estates, and if continued, would have prevented the inheritance tangle we are now experiencing. Even now, every Indian, man, woman, and child could have 160 acres of land if what is held in trust for them could be equally divided. But we are told that the Indian land is so poor. That is another fable. They have 535,000 acres of irrigated land, great areas of other agricultural lands, 46,000,000 acres of forest and grazing lands, but they are leasing far greater areas of good land than they are using, while millions of acres lie idle. If non-Indians can lease 12,000,000 acres of Indian land at a profit, certainly the Indians could use it to their economic advantage if they chose to do so.

Has the present Indian administration stopped the erosion of Indian lands? Its erosion-control experience of the past 10 years should counsel silence on the part of those responsible, lest a revealing investigation be undertaken.

(5) Mr. COLLIER. Two obvious propositions I now make: First, years of time and the wise, productive use of appropriated funds have been and still are necessary, and second, the moral obligation of the Government to give the Indians their chance under the sun, is a profound obligation.

COMMENTS

For 1927 appropriations from the Federal Treasury were just under $15,000,000. Commissioner Rhoads said (see p. 2 of his 1930 report to the Secretary of the Interior):

When we took office on July 1, 1929, the total appropriations available, exclusive of tribal funds, were $16,673,215.78.

In 1938, the Secretary of the Interior reported (p. 263 of his annual report), the annual appropriations to the Bureau from the United

States Treasury and from tribal funds, exclusive of Civilian Conservation Corps, Public Works Administration, and various other funds allotted from appropriations to other activities, as follows:

	1932	1933	1934	1935
From U. S. Treasury	$27,030,046.73	$22,140,098.35	$18,966,545.67	$19,157,064.00
From tribal funds	3,415,046.19	2,215,680.00	2,279,701.00	1,499,933.00
Total	30,445,092.92	24,355,778.35	21,246,246.67	20,583,979.00
	1936	1937	1938	1939
From U. S. Treasury	28,519,132.00	28,041,190.05	32,214,049.85	33,519,962.00
From tribal funds	1,499,933.00	1,694,220.00	1,464,590.00	1,851,109.00
Total	30,019,065.00	29,735,410.05	33,678,639.85	35,371,071.00

Certain sums are also authorized for expenditure under so-called "permanent and indefinite appropriations." For 1934 these aggregated $5,890,500. (See Report of the Secretary of the Interior for 1934, p. 116.)

It is most difficult to determine by how much the annual appropriations to the Indian Bureau have been augumented by allotments from other appropriations such as emergency conservation work, Public Works Administration, rehabilitation, and many other sources, and indirectly from these and from Public Health, Farm Security, Rural Electrification, Roads and many other sources. Emergency conservation work contributed $5,875,200 in 1932 and $10,000,000 in 1933. Public Works Administration contributed $19,034,550 in 1934, but we do not have the data on its later magnificent allotments to the Indian Service. The Bureau has had the supervision of the spending of more than $500,000,000 during the past 10 years. In view of the pitiable showing that has been made, we are inclined to ask how much more is it going to take for the Government to fulfill its "profound moral obligation" to the Indians, How can Congress be assured that a more "wise and productive use" will be made of the appropriated funds in the future?

(6) Mr. COLLIER. In 1776 the Indians occupied approximately 90 percent of the territory within the present boundaries of the United States. They now own and occupy less than 3 percent of that area. The Federal Government was compelled to assume the responsibility for the protection of the Indians during this dispossession process.

COMMENTS

Though the Indians own approximately 3 percent of the land area of the United States, they, of all degrees of blood, and wherever dispersed, and of whatever economic status, constitute less than three-tenths of 1 percent of the total population—that is they own 10 times their share of the land area of this country. No wonder they can allow 6,464,592 acres of their poorest land to lie idle and lease to non-Indians 12,432,122 acres of their better lands, since they still have 36,000,000 of average land from which they can choose farming or stock-raising units up to 5,000 acres for each of all families that might wish to use land for productive purposes. Why continue to

bewail their lost lands which they never used while they are still not using millions of acres of what they do own and on which non-Indians are making a living while paying rents to the Indian landlords?

(7) Mr. COLLIER. The remaining Indian lands were held in trust by the United States, and are not subject to local, county, and State taxation, hence the Federal Government was compelled to render the Indians those services which were never rendered by the States.

COMMENTS

It is true that property held in trust for the Indians is not subject to State, county, or local taxes; but the further statement that the services rendered to the general population by the States, counties, and local communities never were rendered to the Indians, is not true. Every State having Indian population has rendered to its Indians much of the free service rendered its taxpaying population. All States have given educational services, many of them much relief as well as health and other services. The fact that 50,000 Indian children are in public school, less than 20,000 of them under Federal tuition, is well known. The Indians of New York, estimated by the Bureau as 6,861 in its estimate of Indian population in the United States, have always been sponsored by the State. They are satisfied with State sponsorship, even since the Federal Government established an agency there to wean them to Bureau control. Numerous States render educational services to Indians living on tax-exempt lands, though the Bureau includes in its "estimates" of Indian population for appropriations purposes, taxpaying Indians. Let us take an example from Montana: Lake County, Mont., has 54 percent of its land tax exempt by reason of Federal-trust Indian property, yet for 30 years since allotment of the Flathead Reservation the Indians have lived in peace with their white neighbors. They go to school with them; they marry with them; they enjoy all the privileges of the best local government that can be supported by taxpaying citizens. As a further handicap to the communities, not only is more than half the land exempt from taxation, but the Indians having less pride in lands held for them, lease most of them to non-Indians who as "renters" are inclined to large families thus greatly increasing the burdens of the communities in which the Indians usually continue to reside so that the costs of education, welfare, and rehabilitation are doubled.

After the allotment of the Flathead Indians and the settlement of the surplus lands, the various communities, in anticipation of the time when all land would become taxable, bonded themselves to the limit to supply adequate schools and educational facilities. Now, after 30 years, they are still bearing the burden of support while the schools need repairs and extension to meet new requirements. The pittance of tuition paid for a part of the Indians (not for half of those in school and none for the children of lessees) is an insult to the Indians for whom it is paid and is wholly inadequate for the Indians' part in the support of education. The Indians have cast their lots with the whites and have been accepted. If the educational and economic system under which they live breaks down, they suffer equally with the whites, or even more, because it is difficult for them to maintain their self-respect or that of their white neighbors for them when they are powerless to bear their part of the burden, and their sponsor fails to do it for them.

These conditions exist to a greater or lesser degree wherever Indians are located. Who can truthfully say that the States have not furnished to the Indians much of the services which they usually render to their general population?

(8) Mr. COLLIER. For the education of 95,000 Indian children of school age, including those of Alaska, the Government pays approximately $10,500,000 per annum. The Federal Government pays the States an annual subsidy of $1,268,000 to defray the cost of educating 35,000 Indian children in public school.

COMMENTS

Mr. Collier's methods of computing costs of Indian education are inaccurate and confusing. If we can depend on the Statistical Supplement to the Annual Report of the Commissioner of Indian Affairs (we know we cannot) there are 88,230 Indian children of school age. Of this number, 70,067 are enrolled in some school: In public school, 35,507; in Government schools, 27,336; in mission and private schools, 6,943. The Government pays the States a subsidy of $1,268,000 for 35,000 in public school (partial tuition for about 19,000). The mission and private schools educate some 7,000 children without cost to the Federal Government, leaving $9,400,000 for the 27,336 children in Government schools at $344 per enrolled child, while it pays the States $36.20 for each of the 35,000 children in public schools. So it costs the Government 10 times as much to educate Indians in Federal schools as in public school, yet it is generally conceded by Indians and whites alike that the public-school education is much more effective than the Government school in preparing citizens.

On the same basis of comparison, if the Government is responsible for all education of Indian children, it owes the missions $2,408,000 annually for their education of 7,000 Indian children.

Conclusion: Release Indian property from Federal trust and within 3 years, and at a cost of one-fifth to the Federal Government, public schools will be available to all Indian children not cared for in a satisfactory mission school.

(9) Mr. COLLIER. For the medical and hospital services, the annual appropriation is about $6,500,000. Out of this the Indian Service defrays the expenses of operating more than 100 hospitals and sanatoria and has reduced the Indian death rate since 1927 to 13 per 1,000—at a cost of $15 per annum per Indian.

COMMENTS

This free health service probably in any way touches much less than half of the claimed Indian population as a maximum, so that the $15 per capita "estimate" of Mr. Collier has no actual meaning. The Indian health service has done a creditable job and is entitled to claim some credit for the reduction of the Indian death rate over the past half century. Much of the foundation for this reduction was laid during the past 50 years when doctors and field nurses were just as zealous and worked longer hours and under greater handicaps. True stories of the work and sacrifices of those who built up to the present achievements are tragically romantic. Like medical missionaries, they labored untiringly without reward of appreciation and for a pittance of salary as compared with the present. They made it possible for the present to reap what they had sown. Besides, if we consider only the last 16 years, is it not probable that the decrease in

Indian death rate was well under way before the present Commissioner attacked the problem?

If we look further, we find the health service for Indians very spotted. While it is true for the past 10 years, the Indians as a whole have had better health and medical facilities than any comparable groups of whites or other non-Indians in the country, there are still many outlying and isolated groups without any such services, while on the other hand we also find many small groups who have all such services available to them as to their white neighbors, and yet for them, the Bureau provides additionally many times the health services available to any comparable group of non-Indians. We have instances of small groups of Indians scattered among several times as many non-Indians where the Indians have a modern hospital and doctors and nurses to visit them in their homes, while the non-Indians have no hospital within 50 miles or any doctors conveniently available, yet the Indian hospital is closed to them and the doctors for the Indians are not available to them.

The great number of large and expensive Indian hospitals built during the past 10 or 12 years is a case of too late and too much, unless they can serve the war effort in some special way or be made available to supply public needs. Like educational facilities, health facilities are now as available to Indians as to their neighbors, just as soon as Indian property is released from trust. The whole Indian hospital system should now be put under the Public Health Service and made available to all citizens on an equal basis.

(10) Mr. COLLIER. The Indian Service administers 46,000,000 acres of timber and range lands.

COMMENTS

Thus the Indian Bureau duplicates the functions of the Federal Division of Forestry and Grazing. There is no longer any excuse for this duplication, and especially so since the Indian Reorganization Act turned over Indian forests and range lands to the public domain under the Taylor Grazing Act.

(11) Mr. COLLIER. The Indian Service is operating an agricultural extension service and credit system and managing the equivalent of more than 80 branches of banks for Indians. On the operations from the revolving credit fund during the past 8 years, totaling approximately $5,400,000 about $1,500,000 has been repaid the United States by the Indian borrowers. As a result of the work of the agricultural extension and of the credit personnel, the income of the Indians from livestock alone increased almost 750 percent.

Under the Indian Reorganization Act of June 18, 1934, provision was made for a revolving loan fund of $10,000 for loans to Indian tribes which might accept the act. Loans might be made to the tribes, to Indian corporations, or to individual Indians. It was intended to be used as a credit fund for Indians who otherwise had no credit by reason of Federal trust over their property.

The promise of participation in this credit fund was made the most alluring inducement to the various tribes of and groups of Indians to accept the Wheeler-Howard Act. Without this inducement, few tribes would have accepted it.

The Indian agricultural extension service undertook the administration of the revolving loan fund from the first. It began by building up a staff of credit agents in the office and in the field, and by compiling

a volume of rules and regulations for general application to all possible cases. They are designed to "regulate" the economic affairs of every tribe or individual that borrows from the fund.

The regulations limit credit to productive enterprises which the credit agent can approve as having every assurance of being able to reimburse the credit fund. This eliminates home building and home improvement, though that might be a necessary foundation for any other form of production. And this, though tribes were promised before they accepted the act that the loan fund could be used for home building on long-term credit.

In the administration of the credit fund, the whole emphasis is security rather than upon "credit for those who have no material security." The loan applicant must also prepare a plan for the use of his loan in definite particulars, together with his proposed plan of repayment, or else he may accept the credit agents' plans—which he usually is compelled to do in the end. This gives him no latitude for self-direction and relieves him of any feeling of responsibility for the loan.

Sometimes the applicant is advised to retain a part of his loan to use in making the first required payments. This may limit his credit money but it insures a better showing for repayments. However, if the borrower becomes delinquent he is usually allowed to refinance the loan to include the delinquencies which then show up as repayments in the credit accounts.

Here is "regulation" with a vengence: The Credit Unit of Extension insists that all loans made to Indians in a jurisdiction be made under the credit regulations compiled by Extension. This means that there can be but one loaning authority in any jurisdiction. Whatever funds a tribe may have available for loans to members must be turned over to the Credit Unit of Extension to handle under its regulations which are too complex for others to handle. This is contrary to the practice of the country at large, where there may be any number of credit sources under different regulations. The Blackfeet have so far successfully opposed this demand and have set up a loan fund from tribal funds under their own control.

In a recent report of the Credit Unit, we note that the administration of the first $4,558,400 from the revolving-loan fund cost $741,200. Under a bureau that certainly furnishes some of the overhead, $741,200 for administering $4,558,400 appears out of proportion, especially, since three-fourths of this expense could have been saved had credit been administered from the Indian agencies where its administration properly belonged.

In the same report, we also note that one little tribe, the Tongue River, in Montana, has $2,125,502.98 from the Indian credit fund—over 37 percent of the revolving loan fund so far committed has gone to four-tenths of 1 percent of the Indians of the United States. We also note that Lower Brule, in South Dakota, with only 436 resident Indians, has borrowed $220,000; Mescalero, in New Mexico, with only 776 resident Indians, has borrowed $268,000; and that Rocky Boy, in Montana, with 626 resident Indians, has borrowed $80,000. Thus 4 tribes with a combined resident Indian population of 3,388 out of "400,000" in the United States, have $2,693,502.98, or more than half of all the loans committed up to June 30, 1940.

When we remember that 1932 was in the midst of drougth and depression and that 1942 was preceded by several years of unusually good crop weather, an attendant of general prosperity, and when we also remember thousands of relief cattle were distributed to Indians after 1932, and that the cattle were operated by the Indian Bureau which fostered the building up of tribal and corporate herds and assisted that venture by loans from the Indian credit fund, we see how that 750-percent increase in Indian income from livestock may have been possible. Has the supervision and "regulation" of the Indian livestock owners been sufficient to insure them against another drought and depression?

(12) Mr. COLLIER. Through its Irrigation Division, the Indian Service operates 535,000 acres of irrigated Indian land.

COMMENTS

According to the Statistical Supplement to the Report of the Commissioner of Indian Affairs for 1939 page 57, the Indian Irrigation Division operates the irrigation of far more land for non-Indians than for Indians. For instance, on the Flathead, in Montana, 97.8 percent of Indian irrigation is for whites, and on the Yakima it is 92 percent. Why not allow the Indians to "operate" their irrigated lands under the Federal Reclamation Service?

(13) Mr. COLLIER. Through its Land Division, the Indian Service maintains the records of the 56,000,000 acres of Indian lands.

COMMENT

The United States Land Office should be equipped to handle Indian land records.

(14) Mr. COLLIER. Most of the Indians manage to procure their livelihood without any aid from Federal Government except that which was extended to the general population through such organizations as Civilian Conservation Corps.

COMMENT

Rather a remarkable statement in view of the fact that the Federal Government has spent $500,000,000 during the past decade on an Indian Bureau for them.

(15) Mr. COLLIER. While the Indians are exempt from taxation on the bulk of the lands held in trust for them by the Federal Government they are subject to the income tax and sales and inheritance taxes thus carrying the burden of their proportional share of the tax burden lying upon the general population.

COMMENT

Would any group of Oklahoma, Montana, or South Dakota farmers agree to this assumption? The Indians certainly do not pay more income, sales, or inheritance taxes than other citizens in like circumstances, and they are exempt from taxes on all trust property including 56,000,000 acres of land, hundreds of thousands of cattle and other livestock, valued at more than $20,000,000, and real-estate improvements, buildings, equipment, and miscellaneous items to the extent of many millions of dollars. The Indians are not to blame for tax evasion. When thousands of their young men are willingly offering their

lives in the armed forces, it is incredible to believe that any considerable number of their parents, brothers, and sisters would be unwilling to contribute their share with other citizens to the support of their country were they released from wardship to rise in the full stature of citizens.

Commissioner Collier's statement in full follows:

STATEMENT ON INDIAN SERVICE AND INDIAN APPROPRIATIONS

In making this statement for the record, I start by taking note of statements recently made on the House floor by the Honorable Karl Mundt of South Dakota. With much that Mr. Mundt desires to accomplish or to get done, I, as Indian Commissioner, am in accord, as I have made clear in detail to the House Indian Committee. I refer to Mr. Mundt's statements on the House floor, March 16, and in his news release, because they bear rather directly upon appropriations.

If our present estimates are granted by Congress, Indian Service will cost $69 per annum per Indian in the coming fiscal year.

Mr. Mundt states that Indian Service spends $100 a year per Indian in "regulating" the Indians. Let us see.

The $69 per year per Indian (if Congress grants it) will be spent as follows:

For education in schools	$27.00
For hospital and field and home medical service	16.00
For maintenance of roads	4.00
For irrigation, drainage, and water supply	4.00
For guidance and aid (including credit) in farming and stockraising	2.00
For support and rehabilitation of needy Indians	2.00
For meeting treaty obligations with tribes, and the payment of interest on Indian funds held in trust by the United States	2.40
For maintenance of law and order on Indian reservations, including liquor suppression	.60
For the administration of Indian property including forests, oil and mineral wells, mines, etc., allotted and heirship lands, etc	11.00
Total	69.00

Of this $69 per capita, $4.58 is reimbursable to the Treasury.

This $69 per capita per annum furnishes the Indians all of those services which whites get from the State and local governments, the Federal Government and the private charities. The per capita expenditure of State and local government (in the whole country) in 1941 was $84.84. The per capita expenditure when Federal expenditure was included totaled $182.79 in 1941. Is the $69 per capita expenditure for Indians high, or low, by comparison? And what part of the $69 is spent regulating the Indians?

The answer is, just two items. Sixty cents a year per capita is spent on law and order, including liquor suppression. Sixty cents and no more. Compare this with the law and order expenditure of Rhode Island exclusive of towns. Rhode Island's cost for rural law and order was $4.33 per capita per year in 1929. Compare the Indian law and order costs with Puerto Rico's of $3.29 per capita per year in the present fiscal year. Compare it with New Mexico's expenditure. New Mexico's per capita expenditure for law and order exclusive of municipal and county expenditures was $2.76 in the year 1941. Right in the heart of New Mexico are the Pueblos and the Canyoncito and Puertocito Navajos. Thorough law and order is maintained, and the cost is 70 cents a year per Indian.

The other regulatory item is administration of Indian property, $11 per capita per Indian. This Indian property includes 16,000,000 acres of forest land, managed on a sustained-yield basis; 30,000,000 acres of range land, managed on modern conservation principles; producing oil wells, zinc, coal, helium, and many other minerals; and tens of thousands of parcels of allotted land fractionated by inheritance into millions of tiny equities. I have told this committee in previous years that this last-mentioned item (real-estate management of dwindled heirship equities in allotted land) represents a practically dead waste of more than a million dollars a year. It is the only extravagance or waste of Indian service and it could be stopped by legislation which the Administration has sought but has failed to obtain. Without legislation it cannot be stopped.

Educating Indians in good schools, curing them in good hospitals, furnishing them agricultural credit, helping them save their timber lands from being gutted

by fire and their range and farm lands from being gutted by erosion—these activities. I suggest, are not regulating the Indian. Cutting the Indian death-rate from 27 per 1,000 per year 16 years ago to 13 per 1,000 per year at present, is not regulating the Indians.

What is it that the $69 per year of Government money does for the Indian? It provides him with all those services—schooling and adult education, public health and hospital and domiciliary medical care, social welfare, relief of the infirm and old and orphaned, public works, and law enforcement service, which the Federal, State, municipal and county Governments plus the private charities supply to white people. It is not much, but little, this $69. It is far too little, for the reason that I shall now explain.

In 1928 the Institute for Government Research published its monumental report, The Problem of Indian Administration. Its opening sentence read:

"An overwhelming majority of the Indians are poor, even extremely poor, and they are not adjusted to the economic and social system of the dominant white civilization."

Why had this profound poverty descended as a suffocating weight on the Indians? The deliberate and long-continuing actions of our Government had created the poverty and had largely created the economic and social maladjustment too. The century of dishonor toward Indians had run, and it had plunged all but a few of the tribes into the poor, even the extremely poor, the submarginal population zone of our country.

I give you just two examples of how our Government compelled the Indians into poverty.

Forced-land allotment, and the fee patenting of allotments and the sale to whites of heirship lands, became general policy after the year 1888. Between 1888 and 1933 the Indians lost 90,000,000 acres of land to whites. It was their best land. They were allowed to keep 50,000,000 acres. Half of it was desert or semidesert land, and much of the good land still left them was checkerboarded with white-owned land and fractionated into inoperably minute heirship equities.

And through those same years, the land which still the Indians were allowed to keep became gutted by erosion to the total of many million acres. Half, and sometimes two-thirds, of the agricultural soil was washed and blown away. Government action broke to the plow Indian lands in the Dust Bowl which always should have remained grass-land; Government action permitted white operators to wreck Indian lands through overloading the livestock load; Government indifference allowed the cumulative process of erosion on Indian lands to go ahead. The Indians, as official policy declared, were being liquidated, and their landed estate was being liquidated.

In many other ways, by many other procedures, the Government plunged the Indians into their extreme poverty, and its actions ran their death-rate upward until 16 years ago it exceeded the birth-rate and the Indians were a dying race.

Down through the final years of this process of liquidating the Indians and their property, I, as a private citizen, addressing Congress and the public, used language dark but not as dark as the facts. I used dark language as Commissioner before the Indian Reorganization Act was passed in 1934. Robert Gessner in his book Massacre used dark language. Now, into the Congressional Record goes this language, these severe judgments, as relevant to the present day. We were speaking of a bad day that is now gone, not of the present day.

Now, what during all those losing, ruining years, was the relation of the Government to the Indian tribes? It was a relation sealed by the pledges of hundreds of treaties, and enunciated with a sad solemnity by the Supreme Court down the decades from John Marshall's time. The Government was guardian over the Indians, trustee over their property, and their copartner under treaty in many mutual commitments and undertakings.

Two obvious propositions I now make.

First, that to overcome generations of misrule—of cumulative demoralization and impoverishment—years of time and of the wise, productive use of appropriated funds have been and still are necessary.

And second, that the Government's moral obligation to give the Indians, so late, their chance under the sun, was and still is a profound obligation.

Both of these propositions only state what the American people and Congress have recognized and have acted upon. Through the Indian Reorganization Act of 1934, through the Indian Civilian Conservation Corps, through public works and soil-erosion service and rehabilitation, the Government since 1933 has labored with generosity and, I believe, with wisdom and effectiveness, to restore some

of that which it had taken away: Some of the land, some of the liberty, some of the pride, some of the life of the Indians. And surely the Indians have responded worthily. No group of our people in this Second World War is doing better than the Indians. Perhaps none is doing as well. But perhaps the single fact from vital statistics tells most—the fall of the Indian death rate from 27 per 1,000 in 1927 to 13 per 1,000 now.

At present there seems to be a restless wish among some Members of Congress to bring to an end the work of Indian rehabilitation. If they would analyze the present facts or would look back on Indian-Government history, they might lose this restless wish. They might realize that 10 years of upbuilding cannot have fully cured the down-breaking effect of a hundred years of governmental absolutism and of the deliberate impoverishment of the Indian.

Or at the least they might not suggest as a means to completing the citizenship of the Indians the extinguishment of the Federal trusteeship over their properties which would mean throwing these properties upon the tax roll and the open market. All other liberties the Indians have now. The fatal liberty of the fee patenting of their estate would be no liberty but an ending of most of the Indians' practical liberties.

I have stated why the $69 a year per capita for help to Indians is not enough. Actually if our present estimates are granted by Congress, Indian Service will have less money for the total Indian job than Indian Service had in 1932. 1932 was before the thorough effort at Indian rehabilitation had been launched at all. In 1932 the per capita expenditure on Indians was $74. The gross per capita for 1944 will be, as I have stated, $69, of which $4.58 is reimbursable. But as Mr. Greenwood has explained to your committee the adjusted per capita for 1944 for purposes of comparison with 1932 will be not $69 but $58.42; $4.58 of this being reimbursable.

Especially when discussing appropriations must one urge the fact that the land base of most of the tribes is still very much too small: 90,000,000 acres stripped from the tribes in the 45 years before 1933; 5,000,000 acres restored since 1933. Tens of thousands of the Indians are today wholly or practically landless. There is no estimate of Treasury funds for land acquisition for Indians in the present bill. And none for any increase of agricultural loan funds for Indians. This omission is due to the war's emergency. The great need is there waiting to be met.

Supplemental Statement—The Why and the How of Federal Responsibility for Indians

The responsibility of the Federal Government for the welfare of the Indians is based on the fact that there was urgent necessity to extend to them a measure of protection in the process of expropriation that has been going on continuously since 1492. In 1776 the Indians occupied approximately 90 percent of the territory within the present boundaries of the United States. They now own and occupy less than 3 percent of the area of the United States. The process of expropriation involved the extinction of Indian rights on about 1,800,000,000 acres. The Federal Government was compelled to assume the responsibility for the protection of the Indians during this dispossession process in order to reduce the shedding of blood, sweat, and tears to the unavoidable minimum. In placing the responsibility for the Indians' welfare on the Federal Government, Congress relieved the States and Territories of any part of this burden.

As the remaining Indian lands were, for the protection of the Indians, held in trust by the United States, they were not subject to local, county, and State taxation. Hence, the Federal Government was compelled to render the Indians those services which the States, counties, and local communities render the general population. These services, which never were rendered by the States, absorb more than 85 percent of the proposed 1944 appropriation of approximately $27,700,000.

For the education of some 95,000 Indian children of school age in the United States, including Alaska, the Federal Government pays a total of approximately $10,500,000 per annum or, counting only the 82,000 enrolled Indian children, the average cost for schooling Indian children in Government day schools is $116 per child, a cost which is exceeded by several States, including Nevada. For the education of those Indian children who are not within reach of a day school and have to go to a Federal boarding school, the average cost is about $325 per child per annum. The appropriation for educational costs of Indians is about 40 percent of the total appropriation. Of the 8,000 Indian Service employees, some 3,500 are teachers and other school employees.

Of the total of 82,000 Indian children of school age, 35,000 attend the public schools of the States and Territories in which they are located. The Federal Government pays these States an annual subsidy of $1,268,000 to defray the cost of educating these Indian children.

In case the responsibility for the education of Indian children were taken from the Federal Government, this burden of $10,500,000 annually would fall upon the States and Territories.

For the medical and hospital services available to the Indians, the annual appropriation is about $6,500,000. With certain exceptions, neither the States nor the counties render any health services to the Indians, nor are Indians admitted to county and other public hospitals except on a pay basis. Out of this appropriation, the Indian Service defrays the expenses of operating more than 100 hospitals and sanatoria. The per capita cost of this medical service to the Indians is approximately $15 per annum. As a result of these expenditures and of the improved economic and social condition of the Indians, the death rate of Indians, which in 1927 was the highest for any racial group in the country and stood at 27 per 1,000, has since that time been reduced to 13 per 1,000, a reduction of more than 50 percent.

This health and medication service appropriation is approximately 24 percent of the total Indian Service appropriation. The Indian Health Division employs approximately 2,000 people, including doctors, nurses, nurse's aides, ward attendants, and hospital custodial personnel.

Schools and medical services account for a total of about 64 percent of the proposed Indian Service appropriation for 1944. Their employees, totaling about 5,500, constitute over 60 percent of the entire Indian Service personnel of 8,000. These 2 services supply 1 employee for every 75 Indians.

Cost of administering Indian resources.

The Indian Service administers 46,000,000 acres of timber and range lands at an annual cost of approximately $425,000. This brings the annual cost of administration down to less than 1 cent per acre. Other agencies of the Government outside of the Interior Department engaged in the administration of timber and range lands have an annual administrative cost of more than 5 cents per acre. In addition to administering these lands at an extremely low per-acre cost, the Indian Service also collected last year, through a deduction from the sales prices of Indian timber, a total of approximately $145,000, which is returned to the Treasury. In these activities, the Division of Forestry and Grazing employs permanently 165 persons with an additional 130 Indians employed temporarily during the fire season.

The Agricultural Extension Service maintained by the Department of Agriculture in conjunction with the States and counties is not available to Indians; neither are public and private credit facilities available to most Indians inasmuch as their land is held in trust for them by the Federal Government and therefore cannot be pledged as security for the loan. Hence the Indian Service is operating an agricultural extension service and a credit system with the total annual appropriation of approximately $800,000. The number of employees in this service is 360. This number includes the personnel operating a credit system with a capital of more than $13,000,000 managing the equivalent of more than 80 branch banks for Indians. Approximately 50,000 loans to Indians are outstanding. On the operations from the revolving credit fund during the past 8 years totaling approximately $5,400,000, about $1,500,000 has already been repaid the United States by the Indian borrowers. Of the total of installments due 92 percent has been repaid and less than $500 has so far had to be canceled. As a result of the work of the agricultural extension and of the credit personnel the agricultural income of the Indian population has increased very rapidly during the past 10 years. From livestock alone, the annual income of the Indians increased from $1,300,000 in 1932 to more than $10,000,000, in 1942, an increase of almost 750 percent.

Through its Irrigation Division the Indian Service operates 535,000 acres of irrigated Indian lands. The cost of operation is reflected in the current appropriation by items totaling approximately $1,250,000. However, of this amount 85 percent is collected from the water and power users while the balance of 15 percent is reimbursable. The total personnel employed in these operations aggregates 480.

Through its Land Division, the Indian Service maintains the records of the 56,000,000 acres of Indian lands, including nearly 50,000 allotments. The Indian Service also handles all the leasing and permitting of Indian allotted and tribal

lands, negotiates these leases and permits, collects the money and disburses the proceeds to the Indian landowners. The total of real-estate transactions handled by the Indian Service annually exceeds 35,000. This is in addition to the maintenance of the records and the probating of Indian estates.

Indians now practically self-supporting.

It should be stated here that most of the Indians manage to procure their livelihood without any aid from the Federal Government except that which was extended to the general population through such organizations as Civilian Conservation Corps. For direct relief to the Indian population, the Indian Service had available approximately $500,000 or $1.25 per capita. This money goes to the aged, the indigent, and the unemployables, and is supplemented by allocations from tribal funds. In many of the States aged Indians are also the recipients of social-security benefits although the two States with the largest full-blood Indian population, Arizona and New Mexico, are not extending social-security benefits to their Indian citizens.

For the administrative overhead of the Indian Service, the operation of the Chicago headquarters, and of the 82 Indian agencies, a total of $2,760,000 is usually appropriated. The administrative function requires a total personnel of about 1,090 people.

It thus appears that the education of Indians and medical and hospital services, the management of their 56,000,000 acres, and the direction of their agricultural activities, including the operation of a very successful credit system, absorb about 85 percent of the total net appropriation of about $26,200,000, and that the actual overhead cost, including the cost of operating the central organization in Chicago and Washington, is slightly in excess of 10 percent.

Against the proposed 1944 appropriation of $27,972,000, there are the following credits:

Collections of irrigation operation and maintenance and power revenues	$1,025,000
Collections of timber sale expenses	150,000
Collections of probate, lease, hospital, and other fees	(1)
Collections of reimbursable loans	125,000
Miscellaneous collections	240,000

The above total $1,700,000, leaving a net appropriation of $26,270,000.

[1] About $160,000.

Tax payments made by Indians.

While the Indians continue to this day to be exempt from taxation on the bulk of the lands held in trust for them by the Federal Government, they are subject to the income tax in all of its forms and, in the majority of the States, they also pay sales and inheritance taxes, thus carrying their proportionate share of the tax burden lying upon the general population. It is estimated, without recourse to the figures in the Bureau of Internal Revenue, that the income-tax payments of Indians in the calendar year 1942 exceeded $1,000,000. Considering the fact that the bulk of the Indian population operates on an extremely low economic level and falls into the lowest income category among the general population, this estimate indicates that those few Indians who do have large incomes, principally from oil production in Oklahoma, with a handful of fairly large Indian livestock operators in other States, contribute their full proportionate share to the National Treasury.

It is also estimated that in most States which levy a sales tax the average Indian per capita contribution to State and local treasuries is in excess of $5. Thus, the Indian tax contribution to the local, State, and Federal governments is estimated to be in excess of $3,500,000 a year.

Any similar group of the general population in the same economic category would not exceed this tax contribution, yet such a group of the general population is the recipient of free education, free public-health services, free protection, free extension service, and similar contributions paid for out of the school districts, county, State, and Federal treasuries, whereas in the case of Indians all of these services fall directly on the Federal Treasury.

JOHN COLLIER, *Commissioner*

The Indian Bureau Should Be Abolished

The further usefulness of the Indian Bureau has been challenged at various times during the past 50 years even by some of its own higher officials. Commissioner Rhode was appointed in 1929 and proposed that he work himself out of a job by expediting the assumption of its functions by other departments of the Government. Certain well-informed Congressmen and others active in national life have challenged the further need for the Indian Bureau, but it has always been able to effect some compromise whereby it could continue and also become further entrenched and get an ever greater portion of public funds and public services.

The original purpose of the Indian Bureau was to fit the Indian into the commonwealth of citizenship, to help them to make adjustments to the developing situation in which they found themselves, and to help regulate governmental adjustments to them. It was intended as a service rather than as an administrative bureau. The Bureau was expected to recognize values in and to cooperate with missionary effort; to cooperate with the States and with the various functional divisions of the Federal Government in their relations to the Indians. It had few executive functions but gradually acquired such functions under a purpose which became dominating.

As soon as it developed into a full-fledged administrative bureau, it began to set up functional divisions competing with missionary, State, and Federal authorities, functions, and sanctions: Indian schools were established, an Indian land division, Indian forestry, Indian irrigation, Indian extension, Indian health and welfare, Indian inheritance, and other divisions were set up, until the Bureau became a miniature Federal organization. All of this made the Bureau functions more complex and completely clouded the original purpose which was to make the Indian a self-respecting, contributing citizen. Even under the handicaps imposed, the Indian has fully demonstrated that under normal conditions he is able to fulfill the original aims which, had they prevailed, would have eliminated the Indian problem years ago. There may have been some justification for setting up special Indian schools as a temporary expedient, but today, the only personnel needed for the expensive division of Indian education are those who are directly connected with the transfer of Indian education to the States.

While the original aim was to make the Indian a citizen, the present aim appears to be to keep the Indian an Indian and to make him satisfied with all the limitations of a primitive life. We are striving mightily to help him recapture his ancient, worn-out cultures which are now hardly a vague memory to him and are absolutely unable to function in his present world. We non-Indians would not try, even, to recapture our glamorous pioneer culture though it might be done without great sacrifice, and though the adjustment in attitude and desires could be made with far less difficulty than the Indian would have in holding on to his rapidly receding past, to say nothing of his ancient past.

The Bureau has been concerned with building up a system instead of service; attempting to build self-perpetuating institutions; making material improvements for the Indian Service at the expense of Indian life; furnishing physical relief that was not needed nearly so

much as economic and civic encouragement; breaking down assisting agencies; segregating the Indian from the general citizenry; condemning the Indian to perpetual wardship; making the Indian the guinea pig for experimentation; grouping the Indians for convenience of supervision for which they are presumed to exist; tieing him to the land in perpetuity; forcing a conventional type of education on him; attempting to compel all Indians to engage in agriculture and stock raising under the supervision of an extension department which is an end in itself.

Since the Indian Bureau has been built up by adventitious accretions, it may be reduced to a minimum by the orderly elimination of such accretions, and that without regard to vested administrative interests of the Bureau, though with as much regard as expediency will allow for those members of the staff who have been legitimately recruited and are capable of efficient Government service if properly placed where a need for such service exists. There should be a progressive elimination beginning with that which may first be done without unnecessarily disturbing the remainder, and proceeding in a like manner until the whole objective is attained. While there should be fairly well-marked stages in the elimination process, there need be very little pause between the stages, so that all may be accomplished in from 1 to 3 years.

While congressional appropriations to the Indian Bureau hold the attention of the public, they are by no means the whole of the Bureau's resources for spending which may be listed under the following heads:

1. Congressional appropriations to the Bureau from the United States Treasury.
2. Indian tribal funds.
3. "Permanent and indefinite appropriations" from which the Bureau may use several million dollars annually.
4. Transfers of funds from other Government agencies, including funds appropriated to the President and for the Office for Emergency Management. Such transfers to the Bureau have been enormous during the past 10 years. For instance, $19,034,550 from Public Works Administration alone in 1934. Other contributing agencies included Work Projects Administration, Civilian Conservation Corps, Agricultural Adjustment Agency, Federal Emergency Relief Administration, Farm Security Administration, Federal Emergency Relief Administration surplus relief, Emergency Conservation Works, and still others.
5. Cooperative contributions from private foundations and institutions.

Recommendations

1. Do not fill vacancies that may occur in the staff of the Indian Bureau unless the position is one which is necessary to carrying on the process of elimination, in which case the vacancy may be filled by transfer within the Service, of some employee who came into the Service in a legitimate way and according to the regulations of the Civil Service Commission. Annual savings, indeterminate, but actual.

2. Permit all Indian Service employees whose services in the Bureau are not immediately needed, to seek employment elsewhere, and, so far as possible, assist them to transfer to other Government employ-

ment in the interest of national defense and the prosecution of the war in which we are engaged. Annual savings, intangible.

3. Refuse Federal financing in any form or degree to conferences of field and central office employees in the Indian Bureau. Such conferences have been so continuously frequent that they have come to be taken as a matter of course. They are expensive of time and funds far beyond their value in returns. Annual savings, indeterminate but actual.

4. Eliminate surveys by the Indian Bureau. It has acquired the survey habit during the past 10 years. Survey is an interesting recreation, albeit expensive, whether it consists of a junket of specialists from Washington or a mixed group from office and field. Some of the experts made TCBIA [Technical Cooperation Bureau of Indian Affairs] surveys while waiting for something to do. It was unfortunate because they were numerous and voluminous and cluttered up the offices and were not of sufficient value to send to the Archives. Many surveys by the Indian Office have required numerous high-priced specialists with many attendants from the office and from the field. Annual savings, indeterminate but actual.

5 Eliminate research and studies as carried on by the Bureau. The Indian Bureau type of research is mainly done by preferred employees who get into the service to research for their doctor's thesis at Government expense. Research in the Bureau was initiated with $100,000 secured from private foundations for research in Indian education. It was used to employ desirables who did not have civil-service status, to do the work which, if done at all, should have been done by the regular employees. The latest of these studies is now going on—Indian Personality and Response to Authority, it is called. Conducted in cooperation with the University of Chicago, it is now in its second year. It also requires the holding of expensive conferences like the one at Santa Fe last spring, but it is more expensive in that it occupies time and effort of the field personnel in the areas in which it is operating. Annual savings, indeterminate but actual and considerable.

6. Eliminate all supervisors, directors, and coordinators in the central and regional offices, except such as may be needed in transferring functional activities to the States or other agencies. Perhaps the supervisor of public-school relations and the educational field agents under his direction would constitute the only exceptions. Savings, actual, since this staff is in the upper salary range, and many of them travel on a preferred basis at $6 per diem. Annual savings in excess of $100,000.

7. Eliminate all specialists, including anthropologists, various specialists in education, sociologists, social workers, and program planners. These are also in the upper 10-percent salary level and with per diem and transportation expenses. Annual savings, actual but indeterminate.

8. Eliminate all Federal control of law and order as specifically applied to Indians, except as to offenses actually committed on tribal (not individual) lands held in trust for Indian tribes by the Federal Government. Savings, $250,000.

9. Free all Indians from Federal wardship in any form, except those for whom the Government holds property in trust. This would eliminate divers excuses for interfering with State responsibilities and for

maintaining an expensive Bureau organization. Or else, let Congress so define an Indian as to eliminate those who have in reality ceased to be Indians. Annual savings, indeterminate but actual.

10. Eliminate the rehabilitation of Indians as Indians; do not differentiate them from other citizens. If it is necessary for the Government to aid the States in the relief or rehabilitation of any of its citizen groups, that should not be done on the basis of color or race. Annual savings, indeterminate but in excess of $500,000.

11. Transfer Indian probate and inheritance matters to the States. The present inheritance tangle is directly due to Federal trusteeship, and no way has been found to correct it under existing conditions. Annual savings, actual but indeterminate.

12. Eliminate the central office and field staffs which are engaged in the planning and supervision of the construction of buildings, for field schools and agencies. This staff has been built up during the past 12 years, has been most expensive, and has not resulted in any mprovement in building programs, but has made them much more expensive and much less efficient than they were when they were planned and constructed locally. It should not be overlooked that the employment of a New York firm of architects a few years ago for supervising all Bureau buildings on a 7-percent commission on gross construction costs resulted in the loss of hundreds of thousands of dollars to the Government while the results were most disappointing. Annual savings, greatly in excess of $25,000.

13. Put the supervision of Indian forests under the National Forest Administration. Annual savings, a considerable part of the appropriations to the Bureau for such activities in reduction of duplication.

14. Put all Indian irrigation under the Bureau of Reclamation which turns over to completed projects local autonomy of administration. Actual annual savings in addition to reduction of duplicating functions.

15. Transfer Indian education to the States. More than half of all Indian children are now in public school and a large number of the remainder are in mission schools. Now for 10 years, the Bureau has had a supervisor and a staff employed specifically to expedite the transfer of Indian children to the public school, but the present director of Indian education appears determined to build up the Indian school even in territory well served by the public school. The present arrangements with California, Minnesota, and Washington are better than none but not very satisfactory. The Federal Government pays these States well for doing what they are under obligation to do for their citizens. Annual savings in excess of $5,000,000.

16. Eliminate all central office control of credit funds under the Indian Reorganization (Wheeler-Howard) Act. The administration of these funds by the Agricultural Extension Division has been expensive and inefficient. Its regulations are voluminous and intricate, requiring a technically trained staff, which operates for the benefit of the system and completely defeats the purpose of the fund. Let all credit funds be administered from the agency jurisdiction as originally intended. Annual savings indeterminate but in excess of $100,000.

17. Cease all land purchase under the Indian Reorganization [Wheeler-Howard] Act. So far this fund has been used for two kinds of purchases—quantities of low-grade land on which neither Indians nor non-Indians can make a living, and the purchase of a few highly developed and improved tracts which the Bureau must manage.

In almost every case, the land has been purchased for Indians who already have more land than they can use and are leasing much larger quantities to non-Indians. All land purchased under the Indian Reorganization [Wheeler-Howard] Act is transferred to tribal status under Government trust to be used cooperatively by the Indians while none of them are organized as communes nor are many of them communally inclined as to the use of land. Annual savings, indeterminate but amounting to several million.

18. Eliminate all Indian census rolls except such as may be made for a definitely specific purpose to meet a temporary need in bridging the way to a readjustment of Indian status. The national census collects all the Indian census facts needed. At present, census rolls at various agencies are built up mainly to show an increasing Indian population for the purpose of securing more Government support funds for the Bureau. At several agencies there has been recruiting of Indians for the rolls though they may have little Indian blood and have been free from the Bureau for a generation. Annual savings, indeterminate but actual.

19. Eliminate the Indian Office statistical staff. The main purpose served by this new unit of the Bureau is to show Indian increase and the need for additional service which means more funds for the Bureau. Such statistics have little value except in the interest of building up a bureau. Annual savings, indeterminate but in excess of $10,000.

20. Eliminate the Indian Bureau publicity staff and service. It has merely served the ends of propaganda in building up an entrenched Bureau. Annual savings, indeterminate.

21. Eliminate Indian Agricultural Extension, since Indians, as citizens, have the same rights and access to such State and Federal services as other citizens in comparable circumstances. Annual savings in excess of $600,000.

22. Eliminate Federal trust over all individual Indian lands including those in inheritance status. This will free the Indian owners to become responsible citizens, neither in handicapped nor in preferred status. It will enable them to take their places in their communities without the stigma that attaches to them in either status, and will at the same time free the communities to build up through the contribution and to the advantage, of all their people. This will eliminate a large item in the administration of Indian property, and save the Government several million dollars.

23. Cease the purchase of land to be held in tribal status. All purchases of land for Indians under the Indian Reorganization [Wheeler-Howard] Act puts it in tribal status and under Government trust, or it puts it under Government title for the use of some tribe. In no case is the tribe prepared to operate the land as tribal communal land except as they may attempt it under Government supervision. The purchase and supervision of tribal land costs the Government several million dollars annually.

24. Eliminate all Indian boarding schools at the end of the present fiscal year. Fourteen years ago, it was planned to eliminate the last of them in 15 years. The schools may be sold or transferred to other uses not under the immediate supervision of the Federal Government. Annual savings in excess of $4,000,000.

25. Eliminate all day schools except such as may be located on unallotted reservations. This should be done at the end of the present fiscal year except that in some cases it may require longer to make the necessary transfer to the public-school system. This should result in a saving of approximately $2,000,000 to the Federal Government.

26. Dispose of the Indian Bureau library in a manner to make the books, reports, and official documents as generally available as possible.

27. Abolish the Indian Arts and Crafts Board. Annual savings in excess of $20,000.

28. Transfer all Indian hospitals to the Public Health Service. This will result in an unestimated annual savings through the elimination of duplicate functions.

29. Close out the Federal accounts of approximately $50,000,000 of individual Indian moneys now on deposit in the Treasury by disbursing them to the individuals and thus eliminating administration costs.

30. Distribute the approximately $19,000,000 of Indian tribal funds in the Treasury, thus saving the Government an annual appropriation of $700,000 for the payment of interest thereon.

31. Beginning July 1, 1945, reduce the central Indian Office staff to a commissioner and not more than three assistants, a chief counsel, and a clerical staff not exceeding six persons. Beginning January 1, 1946, the central office staff shall not exceed a commissioner and three clerks.

32. Beginning January 1, 1944, reduce all agency staffs to one administrative officer who shall act as liaison officer between the Government and the Indians under the agency, and the absolutely necessary clerical and custodial staff not exceeding five Federal employees in any case.

33. Beginning January 1, 1944, not more than one administrative officer and not to exceed five clerical and custodial employees may be retained at each of the eliminated boarding schools to assist in their disposition, and to act as custodians pending such disposition.

The foregoing elimination should reduce the expenditures for the Indian Bureau for the fiscal year 1944 by more than $15,000,000, while for the fiscal year 1945, the appropriations for the Indian Bureau should not exceed $5,000,000.

Respectfully Submitted,

ELMER THOMAS, *Chairman*,
BURTON K. WHEELER.
DENNIS CHAVEZ.
HENRIK SHIPSTEAD.

REGULATIONS FOR THE SALE OF THE VILLA-SITE LOTS AROUND FLATHEAD LAKE, IN THE FORMER FLATHEAD INDIAN RESERVATION, MONT.

DEPARTMENT OF THE INTERIOR,
Washington, March 20, 1915.

The Commissioner of the General Land Office.

SIR: Under the provisions of the act of April 12, 1910 (36 Stat., 296), you are directed to cause the lots surveyed as villa sites around Flathead Lake, in the former Flathead Indian Reservation, Mont., to be offered for sale at Polson, Mont., at public outcry, under the supervision of the superintendent of opening and sale of Indian lands, at not less than $10 per acre, beginning on July 26, 1915, and continuing thereafter from day to day as long as may be necessary, Sundays and holidays excepted, in the manner and under the terms hereinafter prescribed.

Manner.—Bids may be made either in person or by agent, but not by mail nor at any time or place other than the time and place when the lots are offered for sale hereunder, and any person may purchase any number of lots for which he is the highest bidder. Bidders will not be required to show any qualifications as to age, citizenship, or otherwise. If any successful bidder fails to make the payment required on the date of the sale, the lot awarded to him shall be reoffered for sale on the following day.

Terms.—Payments will be required as follows: No lot will be disposed of for less than $10 per acre, and at least 25 per cent. of the bid price of each lot sold must be paid on the date of the sale and the remainder, if the price bid is $50 or less, within one year from the date of sale; if the price bid be over $50 and less than $100, 75 per cent. of the cost may be divided into two equal payments, due, respectively, one and two years from the date of the sale; if the price bid be $100 or more, the 75 per cent. remaining unpaid may be divided into three equal payments, due, respectively, one, two, and three years from the date of sale. No entry will be allowed until payment has been made in full for the lot, but in case of partial payment the register will issue a nontransferable memorandum duplicate certificate showing the amount of the bid and the terms of the sale, and reciting the right of the purchaser to make entry upon completing the payments; the receiver in such case will issue a memorandum receipt for the money paid. Nothing herein will prevent the transfer of the interests secured by the purchase and the partial payment of the lot, by deed, but the assignee will acquire no greater right than that of the original purchaser, and the final entry and patent will issue to the original purchaser when all payments are made. All lots affected by the easement provided for in the act of April 24, 1912 (37 Stat., 527), as shown upon the approved plats of said lots, will be sold subject to said easement.

Forfeiture.—If any person who has made partial payment on the lot purchased by him fails to make any succeeding payment required under these regulations at the date such payment becomes due, the money deposited by such person for such lot will be forfeited, and the lot, after forfeiture is declared, will be subject to disposition as provided in said act. Lots remaining unsold at the close of sale, or thereafter declared forfeited for nonpayment of any part of the purchase price under the terms of the sale, will be subject to future disposition at public sale at such time and place as may thereafter be provided.

All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or embarrass the sale, and all persons so offending will be prosecuted under section 2373 of the Revised Statutes of the United States, which reads as follows:

> Every person who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees, or attempts to bargain, contract, or agree, with any other person, that the last-named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who by intimidation or unfair management hinders or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars or imprisoned not more than two years, or both.

The superintendent of the opening and sale of Indian lands will be, and he is hereby, authorized in his discretion to fix for any lot a greater minimum price per acre than $10, and he may reject any and all bids for any lot, and at any time suspend, adjourn, or postpone the sale of any lot or lots to such time and place as he may deem proper.

Very respectfully,

A. A. JONES,
First Assistant Secretary.

FLATHEAD LAKE, MONTANA,

Is situated near to and slightly southwest of the Glacier National Park, the region of eternal ice, which may be reached by automobile from the lake in about three hours. The lake is in a valley 15 miles wide and 30 miles long, between ranges of the Rocky Mountains of scenic beauty, whose slopes are covered with fir, larch, and pine trees. The lake has an area of approximately 360 square miles. The Flathead National Forest lies north, west, and east of the valley. The lake and streams abound in fish, and hunting is excellent. The lake is utilized for bathing, sailing, boating, and yachting, and several steamboats ply between the various towns upon its borders. The shores are well adapted for boat landings and the erection of wharves.

The lands abutting the north half of the lake were disposed of many years ago, and numerous homes and fruit orchards have been established thereon. The south half of the lake is within the former Flathead Indian Reservation. The climate is delightful, the thermometer ranging from about zero to 75° or 80° above. Apples, pears, cherries, peaches, and small fruits of the finest quality are raised upon lands bordering upon the lake, many without irrigation.

Twenty-one groups of villa sites fronting on said lake have been surveyed into 905 lots or villa sites for disposition, and a sale of such portion thereof as the demand may warrant will take place in accordance with the regulations hereto attached. The lots contain not less than two or more than five acres.

These villa sites are not only well adapted for summer villas for persons of wealth but for permanent homes for persons of moderate means and for fruit raising. Good roads, adapted to automobile use, skirt the shores of the lake.

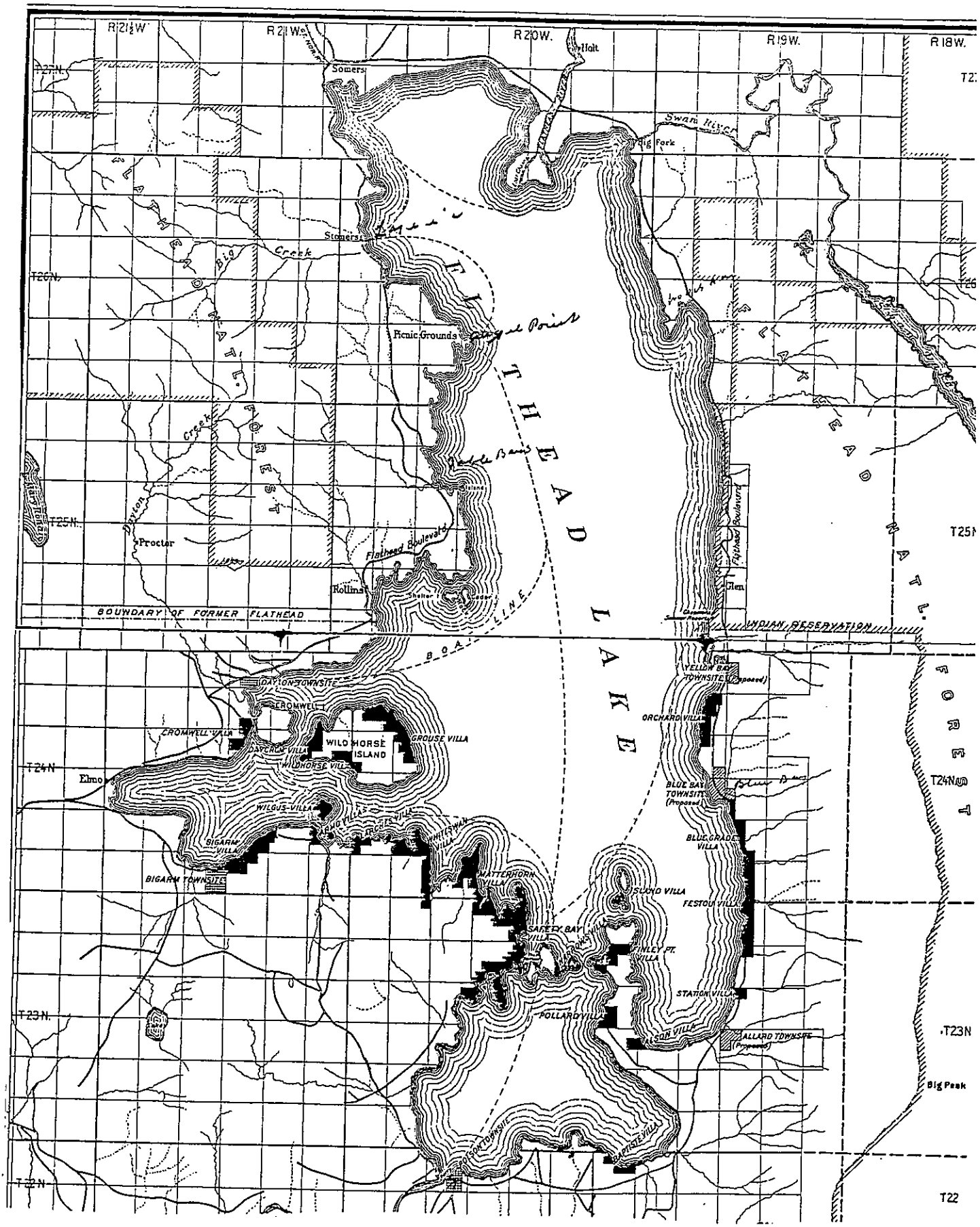
The location of the groups of villa sites is shown upon the above plat, and the name of each group and the number of villa sites are as follows:

Name.	Lots.	Name.	Lots.	Name.	Lots.
Alson	14	Festou	79	Orchard	44
Armo	11	Finley Point	32	Pollard	24
Baptiste	20	Grouse	98	Safety Bay	181
Big Arm	64	Island	3	Station	10
Blue Grade	40	Larches	16	White Swan	91
Cromwell	31	Matterhorn	54	Wild Horse	29
Daycrom	42	Narrows	5	Wilgus	17

The sale will begin at Polson on July 26, 1915, and continue at such other places as may be selected by the superintendent of sale. Polson may be reached from Kalispell either from east or west by lake shore. Automobile stages run daily from Polson on the lake to Ravalli, on the Northern Pacific Railway, and from Elmo, on the lake, to Plains, on said railway, via Camas Hot Springs. Trains from Kalispell, on the Great Northern Railway, connect at Somers for the morning trips of the steamers over the lake to Polson, and from Somers to Big Arm by way of Dayton, Elmo, and many other wharf landings on the western shore. Stop-over privileges can be obtained at Missoula, on the Chicago, Milwaukee & St. Paul Railway, and the lake be reached by automobile stage. The Canadian Pacific Railway will also allow stop-over privileges at Elko, Fernie, or Michel, British Columbia, on tourist tickets, from which points connections can be made with the Great Northern Railway to Somers, on the lake.

Plats of the 21 villa sites will be on file in the following United States land offices: Billings, Bozeman, Glasgow, Great Falls, Havre, Helena, Kalispell, Lewistown, Miles City, and Missoula, Mont.; Denver, Colo.; Cheyenne, Wyo.; Bismarck, N. Dak.; Pierre, S. Dak.; Santa Fe, N. Mex.; Phoenix, Ariz.; Salt Lake City, Utah; Carson City, Nev.; Spokane and Seattle, Wash.; Portland, Oreg.; and Los Angeles and San Francisco, Cal. A set of the plats will also be on file with the United States Reclamation Service, room 802 Post Office Building, Chicago, Ill. These plats will be subject to inspection without charge.

Through the courtesy of the Post Office Department, complete sets of the above plats of villa sites may be examined in the post offices at New York, Philadelphia, Boston, Pittsburgh, Atlanta, and New Orleans.


R21½W
R21W.
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R19W.
R18W.
T27N.
T26N.
T25N.
T24N
T23N.
T22N
T25N
T24N
T23N
T22
Somers
Holt
Swan River
Big Fork
Big Creek
Picnic Grounds
Proctor
Dayton
Rollins
Flathead Boulevard
Elmo
Wild Horse Island
Cromwell
Dayton Townsite
Cromwell Villa
Dayton Villa
Wildhorse Villa
Crouse Villa
Wilgus Villa
Bigarm Villa
Bigarm Townsite
Whitefish Villa
Matterhorn Villa
Safety Bay Villa
Pollard Villa
Alson Villa
Station Villa
Valley Pt. Villa
Festoon Villa
Blue Grade Villa
Blue Bay Townsite (Proposed)
Orchard Villa
Yellow Bay Townsite (Proposed)
Allard Townsite (Proposed)
Big Peak
Flathead Lake
Flathead Indian Reservation
Boundary of former Flathead Indian Reservation
Flathead National Forest

CONSTITUTION AND BYLAWS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION

PREAMBLE

We, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, in order to establish a more responsible organization, promote our general welfare, conserve and develop our lands and resources, and secure to ourselves and our posterity the power to exercise certain rights of self-government not inconsistent with Federal, State, and local laws, do ordain and establish this Constitution for the Confederated Tribes of the Flathead Reservation.

ARTICLE I—TERRITORY

The jurisdiction of the Confederated Salish and Kootenai Tribes of Indians shall extend to the territory within the original confines of the Flathead Reservation as defined in the Treaty of July 16, 1855, and to such other lands without such boundaries, as may hereafter be added thereto under any law of the United States, except as otherwise provided by law.

ARTICLE II—MEMBERSHIP

Amended
See p. 15-18

SECTION 1. The membership of the Confederated Tribes of the Flathead Reservation shall consist as follows:

(a) All persons of Indian blood whose names appear on the official census rolls of the Confederated Tribes as of January 1, 1935.

(b) All children born to any member of the Confederated Salish and Kootenai Tribes of the Flathead Reservation who is a resident of the reservation at the time of the birth of said children.

SECTION 2. The Council shall have the power to propose ordinances, subject to review by the Secretary of the Interior, governing future membership and the adoption of members by the Confederated Tribes.

SECTION 3. No property rights shall be acquired or lost through membership in this organization, except as provided herein.

ARTICLE III—THE TRIBAL COUNCIL

SECTION 1. The governing body of the Confederated Salish and Kootenai Tribes of the Flathead Reservation shall be the Tribal Council.

SECTION 2. The Council shall consist of ten councilmen to be elected from the districts as set forth hereafter, and Chiefs Martin Charlo and Eneas Paul Koostahtah.

SECTION 3. Representation from the districts hereby designated shall be as follows: Jocko Valley and Mission Districts, two council-

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men each; Ronan, Pablo, Polson, Elmo-Dayton, Hot Springs-Camas Prairie, and Dixon, one councilman each.

SECTION 4. The Tribal Council shall have the power to change the districts and the representation from each district, based on community organization or otherwise, as deemed advisable, such change to be made by ordinance, but the total number of delegates shall not be changed as provided for in section 2 of article III of this Constitution.

SECTION 5. The Tribal Council so organized shall elect from within its own number a chairman, and a vice chairman, and from within or without its own membership, a secretary, treasurer, sergeant-at-arms, and such other officers and committees as may be deemed necessary.

SECTION 6. No person shall be a candidate for membership in the Tribal Council unless he shall be a member of the Confederated Tribes of the Flathead Reservation and shall have resided in the district of his candidacy for a period of one year next preceding the election.

SECTION 7. The Tribal Council of the Confederated Tribes of the Flathead Reservation shall be the sole judge of the qualifications of its members.

ARTICLE IV—NOMINATIONS AND ELECTIONS

SECTION 1. The first election of a Tribal Council under this Constitution shall be called and supervised by the present Tribal Council within 30 days after the ratification and approval of this Constitution, and thereafter elections shall be held every two years on the third Saturday prior to the expiration of the terms of office of the members of the Tribal Council. At the first election, five councilmen shall be elected for a period of two years and five for a period of four years. The term of office of a councilman shall be for a period of four years unless otherwise provided herein.

SECTION 2. The Tribal Council or an election board appointed by the Council shall determine rules and regulations governing all elections.

SECTION 3. Any qualified member of the Confederated Tribes may announce his candidacy for the Council, within the district of his residence, notifying the Secretary of the Tribal Council in writing of his candidacy at least 15 days prior to the election. It shall be the duty of the Secretary of the Tribal Council to post in each district at least 10 days before the election, the names of all candidates for the Council who have met these requirements.

SECTION 4. The Tribal Council, or a board appointed by the Council, shall certify to the election of the members of the Council within 5 days after the election returns.

SECTION 5. Any member of the Confederated Tribes of the Flathead Reservation who is 21 years of age or over and who has maintained a legal residence for at least one year on the Flathead Reservation shall be entitled to vote.

SECTION 6. The Tribal Council, or a board appointed by the Tribal Council, shall designate the polling places and appoint all election officials.

Article V—Vacancies and Removal from Office

Section 1. If a councilman or official shall die, resign, permanently leave the reservation, or be removed from office, the Council shall declare the position vacant and appoint a successor to fill the unexpired term, *provided* that the person chosen to fill such vacancy shall be from the district in which such vacancy occurs.

Section 2. Any councilman who is proven guilty of improper conduct or gross neglect of duty may be expelled from the Council by a two-thirds vote of the membership of the Council voting in favor of such expulsion, and *provided further*, that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least five days before the meeting at which he is to appear.

Article VI—Powers and Duties of the Tribal Council

Section 1. The Tribal Council shall have the power, subject to any limitations imposed by the Statutes or the Constitution of the United States, and subject to all express restrictions upon such powers contained in this Constitution and attached Bylaws;

(a) To regulate the uses and disposition of tribal property, to protect and preserve the tribal property, wildlife and natural resources of the Confederated Tribes, to cultivate Indian arts, crafts, and culture, to administer charity; to protect the health, security, and general welfare of the Confederated Tribes.

(b) To employ legal counsel for the protection and advancement of the rights of the Flathead Confederated Tribes and their members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To negotiate with the Federal, State, and local governments on behalf of the Confederated Tribes, and to advise and consult with the representatives of the Departments of the Government of the United States on all matters affecting the affairs of the Confederated Tribes.

(d) To approve or veto any sale, disposition, lease, or encumbrance of tribal lands and tribal assets which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other agency of the Government, *provided* that no tribal lands shall be sold or encumbered or leased for a period in excess of five years, except for Governmental purposes.

(e) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Confederated Tribes, prior to the submission of such estimates to the Congress.

(f) To manage all economic affairs and enterprises of the Confederated Tribes in accordance with the terms of a charter to be issued by the Secretary of the Interior.

(g) To make assignments of tribal lands to members of the Confederated Tribes in conformity with article VIII of this Con-

Amended See p. 13-14

(h) To appropriate for tribal use of the reservation any available applicable tribal funds, provided that any such appropriation may be subject to review by the Secretary of the Interior, and *provided, further*, that any appropriation in excess of $5,000 in any one fiscal year shall be of no effect until approved in a popular referendum.

(i) To promulgate and enforce ordinances, subject to review by the Secretary of the Interior, which would provide for assessments or license fees upon nonmembers doing business within the reservation, or obtaining special rights or privileges and the same may also be applied to members of the Confederated Tribes, provided such ordinances have been approved by a referendum of the Confederated Tribes.

(j) To exclude from the restricted lands of the reservation persons not legally entitled to reside thereon, under ordinances which may be subject to review by the Secretary of the Interior.

(k) To enact resolutions or ordinances not inconsistent with article II of this Constitution governing adoptions and abandonment of membership.

(l) To promulgate and enforce ordinances which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Confederated Tribes, and providing for the maintenance of law and order and the administration of justice by the establishment of an Indian Court, and defining its powers and duties.

(m) To purchase land of members of the Confederated Tribes for public purposes under condemnation proceedings in courts of competent jurisdiction.

(n) To promulgate and enforce ordinances which are intended to safeguard and promote the peace, safety, morals, and general welfare of the Confederated Tribes by regulating the conduct of trade and the use and disposition of property upon the reservation, providing that any ordinance directly affecting nonmembers shall be subject to review by the Secretary of the Interior.

(o) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative and other associations which may be organized under any charter issued under this Constitution.

(p) To regulate the inheritance of real and personal property, other than allotted lands, within the Flathead Reservation, subject to review by the Secretary of the Interior.

(q) To regulate the domestic relations of members of the Confederated Tribes.

(r) To recommend and provide for the appointment of guardians for orphans, minor members of the Confederated Tribes, and incompetents subject to the approval of the Secretary of the Interior, and to administer tribal and other funds or property which may be transferred or entrusted to the Confederated Tribes or Tribal Council for this purpose.

(s) To create and maintain a tribal fund by accepting grants or donations from any person, State, or the United States.

(t) To delegate to subordinate boards or to cooperative associations which are open to all members of the Confederated Tribes, any

of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

(u) To adopt resolutions or ordinances to effectuate any of the foregoing powers.

SECTION 2. Any resolution or ordinance which by the terms of this constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation who shall, within ten days thereafter, approve or disapprove the same, and if such ordinance or resolution is approved, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior who may, within 90 days from the date of enactment, rescind said ordinance or resolution for any cause, by notifying the Council of such action: *Provided*, That if the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten days after its enactment, he shall advise the Council of his reasons therefor, and the Council, if such reasons appear to be insufficient, may refer it to the Secretary of the Interior, who may pass upon same and either approve or disapprove it within 90 days from its enactment.

SECTION 3. The council of the Confederated Tribes may exercise such further powers as may in the future be delegated to it by the Federal Government, either through order of the Secretary of the Interior or by Congress, or by the State Government or by members of the Confederated Tribes.

SECTION 4. Any rights and powers heretofore vested in the Confederated Tribes but not expressly referred to in this Constitution shall not be abridged by this article, but may be exercised by the members of the Confederated Tribes through the adoption of appropriate bylaws and constitutional amendments.

ARTICLE VII—BILL OF RIGHTS

SECTION 1. All members of the Confederated Tribes over the age of 21 years shall have the right to vote in all tribal elections, subject to any restrictions as to residence as set forth in article IV.

SECTION 2. All members of the Confederated Tribes shall be accorded equal opportunities to participate in the economic resources and activities of the reservation.

SECTION 3. All members of the Confederated Tribes may enjoy without hindrance freedom of worship, speech, press, and assembly.

SECTION 4. Any member of the Confederated Tribes accused of any offense, shall have the right to a prompt, open, and public hearing, with due notice of the offense charged, and shall be permitted to summon witnesses in his own behalf and trial by jury shall be accorded, when duly requested, by any member accused of any offense punishable by more than 30 days' imprisonment, and excessive bail or cruel or unusual punishment shall not be imposed.

ARTICLE VIII—LAND

SECTION 1. *Allotted lands.*—Allotted lands, including heirship lands, within the Flathead Reservation, shall continue to be held as heretofore by their present owners. The right of the individual In-

Amended
See p. 19-20

dian to hold or to part with his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Confederated Tribes either in exchange for a money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

The Tribal Council shall have the right to exchange tribal lands for individual allotments when necessary for consolidation of tribal holdings and subject to approval of the Secretary of the Interior. Such exchanges shall be based on the appraised value of the lands so exchanged, and the individual Indian shall hold the land so exhanged in the same manner as the original allotment.

SECTION 2. *Tribal lands.*—The unallotted lands of the Flathead Reservation, and all lands which may hereafter be acquired by the Flathead Confederated Tribes or by the United States in trust for the Flathead Confederated Tribes, shall be held as tribal land, and no part of such land shall be mortgaged or sold. Tribal lands shall not be allotted to individuals but may be assigned to members of the Confederated Tribes, or leased, or otherwise used by the Confederated Tribes as hereinafter provided.

SECTION 3. *Leasing of tribal lands.*—Tribal lands may be leased by the Tribal Council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.

In the leasing of tribal lands preference shall be given, first, to Indian cooperative associations, and, secondly, to individual Indians who are members of the Confederated Tribes. No lease of tribal land to a nonmember shall be made by the Tribal Council unless it shall appear that no Indian cooperative association or individual member of the Confederated Tribes is able and willing to use the land and to pay a reasonable fee for such use.

Grazing permits covering tribal land may be issued by the Tribal Council, with the approval of the Secretary of the Interior, in the same manner and upon the same terms as leases.

SECTION 4. *Grants of standard assignments.*—In any assignment of tribal lands which now are owned by the Confederated Tribes or which may hereafter be acquired for the Confederated Tribes by the United States, or purchased by the Confederated Tribes out of tribal funds, preference shall be given, first, to heads of families which are entirely landless, and, secondly, to heads of families which have no allotted lands or interests in allotted lands but shall have already received assignments consisting of less than 80 acres of agricultural land, or other land or interest in land of equal value.

No allotted member of the Confederated Tribes who may hereafter have the restrictions upon his land removed and whose land may thereafter be alienated shall be entitled to receive an assignment of lands as a landless Indian.

Assignments made under this section shall be for the primary purpose of establishing homes for landless Indians, and shall be known as "Standard Assignments."

The Tribal Council may, if it seems fit, charge a fee of not to exceed $5.00 on approval of an assignment of land made under this section.

SECTION 5. *Tenure of standard assignments.*—If any member of the Confederated Tribes holding a standard assignment of land shall, for a period of one year, fail to use the land so assigned, or shall use such land for any unlawful purposes, his assignment may be canceled by the Tribal Council after he has had due notice and an opportunity to be heard, and the said land may be reassigned in accordance with the provisions of section 4 of this article.

Upon the death of any Indian holding a "Standard Assignment", his heirs, or other individuals designated by him by will or by written request, shall have a preference in the reassignment of the land, provided such persons are members of the Confederated Tribes who would be eligible to receive a "Standard Assignment."

SECTION 6. *Grant of exchange assignment.*—Any member of the Confederated Tribes who owns an allotment or any share of heirship land, or any unencumbered deeded land within the reservations, may voluntarily transfer his interest in such land to the Confederated Tribes in exchange for an assignment to the same land or to other lands of equal value. If the assignee prefers, he may receive, in lieu of a specific tract of land, a proportionate share in a larger grazing unit.

Assignments made under this section shall be known as "Exchange Assignments."

SECTION 7. *Leasing of exchange assignments.*—Exchange assignments may be used by the assignee or leased by him to Indian cooperative associations, to individual members of the Confederated Tribes, or, if no individual Indian or Indian cooperative association is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians in the same manner as allotted lands.

Amended
See p. 19-20

SECTION 8. *Inheritance of exchange assignments.*—Upon the death of the holder of any exchange assignment, such land shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heirs or devisees who are not members of the Confederated Tribes, except that a life assignment may be made to the surviving widower or widow of the holder of an assignment.

(b) Such lands may not be reassigned to any heir or devisee who already holds more than 320 acres of grazing land, or other land or interests in lands of equal value, either under allotment or under assignment.

(c) Such lands may not be subdivided into units smaller than 160 acres, and no area of agricultural land shall be subdivided into units smaller than two and one-half acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Council shall issue to the eligible heirs or devisees, grazing permits or other interest in tribal lands of the same value as the assignment of the decedent.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for reassignment in accordance with the provisions of Section 4 of this Article.

SECTION 9. *Inheritance of improvements.*—Improvements of any character made upon assigned land may be bequeathed to and inherited by members of the Confederated Tribes, or otherwise disposed of under such regulations as the Tribal Council shall provide. No permanent improvements shall be removed from the land without the consent of the Tribal Council.

SECTION 10. *Exchange of assignments.*—Assignments may be exchanged between members of the Confederated Tribes by common consent in such manner as the Tribal Council shall designate.

(a) *Use of unassigned community land.*—Community land which is not assigned, including community timber reserves, shall be managed by the community council for the benefit of the members of the entire community, and any cash income derived from such land shall accrue to the benefit of the community as a whole.

SECTION 11. *Purchase of land by community.*—Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land under the following conditions:

(a) Land within the Flathead Reservation, or adjacent to the boundaries thereof which is not now in Indian ownership, may be purchased by or for the Confederated Tribes.

(b) Restricted land which is in heirship status at the time of the adoption and approval of this Constitution may be purchased by or for the Confederated Tribes with the consent of all the adult heirs, and the legal guardians of minor heirs, or incompetent heirs, payment therefor to be made as may be agreed upon.

(c) Land owned by any member of the Confederated Tribes who is over the age of 60 years, or who is physically incapacitated, may be transferred by its owner to the Confederated Tribes in exchange for a pension or not more than twice the annual rental value of the land for the life of the pensioner, to be paid out of available tribal funds.

Amended
See p. 19-20

(d) Land in excess of 320 acres owned by any member of the Confederated Tribes, with the consent of the owner, payments to be made under such terms as may be agreed upon.

(e) Land owned by any member of the Confederated Tribes who desires to leave the reservation permanently may be purchased by the Confederated Tribes, under such terms as may be agreed upon.

SECTION 12. *Method of making assignments.*—Applications for assignments shall be filed with the Secretary of the Council and shall be in writing, setting forth the name of the person or persons applying for the land and as accurate a description of the land desired as the circumstances will permit. Notices of all applications received by the Secretary shall be posted by him in the agency office and in at least three conspicuous places in the district in which the land is located, for not less than 20 days before action is taken by the Council.

Any member of the Confederated Tribes wishing to oppose the granting of an assignment shall do so in writing, setting forth his objections, to be filed with the Secretary of the Council, and may, if he so desires, appear before the Council to present evidence. The Secretary of the Council shall furnish the Superintendent or other officer in charge of the agency a complete record of all action taken by the Council on the application for assignment of land, and

a complete record of assignments shall be kept in the agency office and shall be open for inspection by all members of the Confederated Tribes.

The Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

Article IX—Referendum

Section 1. Upon a petition of at least one-third (⅓) of the eligible voters of the Confederated Tribes, or upon the request of a majority of the members of the Tribal Council, any enacted or proposed ordinance or resolution of the Council shall be submitted to a popular referendum, and the vote of a majority of the qualified voters voting in such referendum shall be conclusive and binding on the Tribal Council, provided that at least thirty percent (30%) of the eligible voters shall vote in such election.

Aticle X—Amendments

Section 1. This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the Confederated Tribes voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty percent (30%) of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment, at the request of two-thirds of the Council, or upon presentation of a petition signed by one-third (⅓) of the qualified voters, members of the Confederated Tribes.

BYLAWS

Article I—The Tribal Council

Section 1. The Chairman of the Council shall preside over all meetings of the Council, perform all duties of chairman, and exercise any authority detailed to him, and he shall be entitled to vote on all questions.

Section 2. The vice chairman shall assist the chairman when called on so to do, in the absence of the chairman shall preside, and when so presiding shall have all the privileges, duties, and responsibilities of the chairman.

Section 3. The Council secretary shall forward a copy of the minutes of all meetings to the Superintendent of the Reservation and to the Commissioner of Indian Affairs.

Section 4. The duties of all appointed boards or officers of the organization shall be clearly defined by resolutions of the Council at the time of their creation or appointment. Such boards and officers shall report from time to time as required to the Council and their activities and decisions shall be subject to review by the Council upon petition of any person aggrieved.

Section 5. Newly elected members who have been duly certified shall be installed at the first regular meeting of the Tribal Council.

SECTION 6. Each member of the Tribal Council and each officer or subordinate officer, elected or appointed hereunder, shall take an oath of office prior to assuming the duties thereof, by which oath, he shall pledge himself to support and defend the Constitution of the United States and this Constitution and Bylaws. The following form of oath of office shall be given: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, to carry out faithfully and impartially, the duties of my office to the best of my ability; to cooperate, promote, and protect the best interests of my Tribe, in accordance with this Constitution and Bylaws."

Amended See p. 21-22

SECTION 7. Regular meetings of the Tribal Council shall be held on the first Saturdays of January, April, July, and October, at 9:00 o'clock a. m., at the Flathead Agency.

SECTION 8. Special meetings may be called by a written notice signed by the chairman or a majority of the Tribal Council and when so called the Tribal Council shall have power to transact business as in regular meetings.

SECTION 9. No business shall be transacted unless a quorum is present which shall consist of two-thirds (⅔) of the entire membership.

SECTION 10. Order of business:

(a) Call to order by chairman.
(b) Roll call.
(c) Reading of minutes of last meeting.
(d) Unfinished business.
(e) Reports.
(f) New business.
(g) Adjournment.

SECTION 11. It shall be the duty of each member of the Tribal Council to make reports to the district from which he is elected, concerning the proceedings of the Tribal Council.

SECTION 12. The Tribal Council may prescribe such salaries for officers or members of the Council as it deems advisable, from such funds as may be available.

ARTICLE II—ORDINANCES AND RESOLUTIONS

SECTION 1. All final decisions of the Council on matters of general and permanent interest to the members of the Confederated Tribes shall be embodied in ordinances. Such ordinances shall be published from time to time for the information and education of the members of the Confederated Tribes.

SECTION 2. All final decisions of the Council on matters of temporary interest (such as action on the reservation budget for a single year, or petitions to Congress or the Secretary of the Interior) or relating especially to particular individuals or officials (such as adoption of members, instructions for tribal employees or rules of order for the Council) shall be embodied in resolutions. Such resolutions shall be recorded in a special book which shall be open to inspection by members of the Confederated Tribes.

SECTION 3. All questions of procedure (such as acceptance of Committee reports or invitations to outsiders to speak) shall be

decided by action of the Council or by ruling of the Chairman, if no objection is heard.

In all ordinances resolutions or motions the Council may act by majority vote, but all matters of importance shall be fully discussed and a reasonable attempt shall be made to secure unanimous agreement.

SECTION 4. *Legislative forms.*—Every ordinance shall begin with the words: "Be it enacted by the Council of the Confederated Salish and Kootenai Tribes—."

SECTION 5. Every resolution shall begin with the words: "Be it resolved by the Council of the Confederated Salish and Kootenai Tribes—."

SECTION 6. Every ordinance or resolution shall contain a recital of the laws of the United States and the provisions of this Constitution under which authority for the said ordinance or resolution is found.

ARTICLE III—RATIFICATION OF CONSTITUTION AND BYLAWS

This Constitution and the attached Bylaws, when adopted by a majority vote of the voters of the Confederated Tribes voting at a special election called by the Secretary of the Interior, in which at least thirty (30) percent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be in force from the date of such approval.

CERTIFICATE OF ADOPTION

Pursuant to an order, approved September 25, 1935, by the Secretary of the Interior, the attached Constitution and Bylaws were submitted for ratification to the members of the Confederated Salish and Kootenai Tribes of the Flathead Reservation and were on October 4, 1935, duly adopted by a majority vote of the members of said voting in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 14, 1935 (Pub., No. 147, 74th Cong.).

ROY E. COURVILLE,
Chairman of Election Board.

JOSEPH R. BLODGETT,
President of Tribal Council.

LUMAN W. SHOTWELL,
Superintendent and ex officio
Secretary of the Tribal Council.

MARTIN (his thumb mark) CHARLO,
Chief Confederated Salish Tribe.

PAUL (his thumb mark) KOOS TA-TA,
Chief Kootenai Tribe.

Witnesses to mark:
HENRY MATT.
NICOLAI LASSAW.

I, Harold I. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and Bylaws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution or Bylaws are hereby declared inapplicable to the Confederated Salish and Kootenai Tribes of the Flathead Reservation.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and Bylaws.

Approval recommended October 26, 1935.

JOHN COLLIER,
Commissioner of Indian Affairs.

HAROLD L. ICKES,
Secretary of the Interior.
[SEAL]

WASHINGTON, D. C.,
October 28, 1935.

AMENDMENT TO THE CONSTITUTION AND BY-LAWS OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONTANA

AMENDMENT I.

Article VI, Section 1 (h) of the Constitution and By-laws of the Confederated Salish and Kootenai Tribes shall be amended to read as follows:

SECTION 1. The Tribal Council shall have the power, subject to any limitations imposed by the Statutes or the Constitution of the United States, and subject to all express restrictions upon such powers contained in this Constitution and attached By-laws;

(h) To appropriate for tribal use of the reservation any available applicable funds in the tribal treasury, provided that any such appropriation in excess of $25,000 shall be subject to review by the Secretary of the Interior.

CERTIFICATION OF ADOPTION

Pursuant to an order approved October 14, 1948, by the Assistant Secretary of the Interior, the attached Amendment I to the Constitution and By-laws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, was submitted for ratification to the Indians of the Flathead Reservation and was on December 10, 1948, duly adopted by a vote of 405 for, and 201 against, in an election in which over thirty percent of those entitled to vote cast their ballots, in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

WALTER W. MCDONALD,
Chairman, Confederated Salish & Kootenai Tribal Council.

PHIL HAMEL,
Secretary, Confederated Salish & Kootenai Tribal Council.

C. C. WRIGHT,
Superintendent, Conf. Salish & Kootenai Tribes.

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APPROVAL

I, William E. Warne, Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve Amendment I to the Constitution and By-laws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

Approval recommended: December 21, 1948.

JOHN H. PROVINSE,
Assistant Commissioner.

WILLIAM E. WARNE,
Assistant Secretary of the Interior.

WASHINGTON, D. C., *December 22, 1948.*

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CONSTITUTION AND BYLAWS
of the
SALISH AND KOOTENAI TRIBES
of the
FLATHEAD RESERVATION
MONTANA

Amendment II

Article II of the Constitution entitled "Membership" is hereby amended in its entirety to read as follows:

"Section 1. Confirmation of Rolls - The membership of the Confederated Tribes of the Flathead Reservation is confirmed in accordance with the per capita rolls as from time to time prepared.

"Section 2. Present Membership - Membership in the Tribes on and after the date of the adoption of this amendment shall consist of all living persons whose names appear on the per capita roll of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, as prepared for the per capita distribution as shown on the per capita roll paid in February 1959 together with all children of such members, born too late to be included on such per capita roll and prior to the effective date of this section who possess one-fourth (1/4) or more Salish or Kootenai blood or both and are born to a member of the Confederated Tribes of the Flathead Indian Reservation. Subject to review by the Secretary of the Interior, the Tribal Council shall make any necessary corrections in this 1959 membership roll so that no one eligible for membership under prior constitutional provisions shall be excluded therefrom.

"Section 3. Future Membership - Future membership may be regulated from time to time by ordinance of the Confederated Tribes subject to review by the Secretary of the Interior. Until and unless an ordinance is adopted any person shall be enrolled as a member who shall (a) apply, or have application made on his behalf, establishing eligibility under this provision; (b) show that he is a natural child of a member of the Confederated Tribes; (c) that he possesses one-quarter (1/4) degree or more blood of the Salish or Kootenai Tribes or both, of the Flathead Indian Reservation, Montana; (d) is not enrolled on some other reservation.

"Section 4. Adoption - The Tribal Council shall have the power to enact and promulgate ordinances, subject to review by the Secretary of the Interior, governing the adoption of persons as members of the Confederated Salish and Kootenai Tribes.

"Section 5. Loss of Membership - Membership in the Confederated Tribes may be lost (1) by resignation in writing to the Tribal Council; (2) by enrollment of the member with another Indian tribe; (3) by establishing a legal residence in a foreign country; (4) upon proof of lack of eligibility for enrollment, or fraud in obtaining enrollment, with due notice and opportunity to be heard and to defend before the Tribal Council, subject to appeal to the Secretary of the Interior, whose decision shall be confined to the record made in such proceeding which, if supported by substantial evidence, shall be binding.

"Section 6. Definitions - Wherever the term "Indian Blood" shall have been used herein or in tribal ordinances, unless the context shall require a different meaning, it shall be determined to mean the blood of either or both the Kootenai or the Salish Tribes of the Flathead Reservation.

"Section 7. Current Membership Roll - The membership roll of the Confederated Salish and Kootenai Tribes of the Flathead Reservation shall be kept current by striking therefrom the names of persons who have died or have lost membership pursuant to this Constitution and adding thereto the names of persons who shall have established eligibility or been adopted. The roll so prepared shall be the basis for determining the right of persons whose names appear thereon to share in annual per capita distribution of funds or in any other tribal property, subject to Secretarial approval.

"Section 8. Rules of Procedure - The Tribal Council shall have the authority to prescribe rules to be followed in compiling a membership roll in accordance with the provisions of this article, the completed roll to be approved by the Tribal Council of the Confederated Salish and Kootenai Tribes. In case of distribution of tribal assets, the roll shall be submitted to the Secretary of the Interior for final approval as may be provided by law.

"Section 9. Rights of Members are Prospective - No person shall be entitled to receive a per capita payment or share in any other tribal assets which were distributed prior to the date of his actual enrollment."

CERTIFICATION OF ADOPTION

Pursuant to an order approved January 20, 1960, by the Assistant Secretary of the Interior, the attached amendment to the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation was submitted for ratification to the qualified voters of the Salish and Kootenai Indian Tribes and was on April 1, 1960 duly ratified by a vote of 762 for, and 187 against, in an election in which at least 30 percent of those entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

(sgd) Jerome Hewankorn
Vice-Chairman, Tribal Council,
Confederated Salish and Kootenai Tribes

(sgd) E. W. Morigeau
Actg. Secretary, Tribal Council,
Confederated Salish and Kootenai Tribes

(sgd) Charles S. Spencer
Superintendent, Flathead Agency

APPROVAL

I, Fred A. Seaton, Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment II to the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, to be effective as of April 1, 1960, the date of the ratification by the qualified voters of the tribes.

Approval recommended:

(sgd) Glenn L. Emmons
Commissioner, Bureau of Indian Affairs

(sgd) Fred A. Seaton
Secretary of the Interior
(SEAL)

May 5, 1960

Washington, D. C.

CONSTITUTION AND BYLAWS
of the
SALISH AND KOOTENAI TRIBES
of the
FLATHEAD RESERVATION
MONTANA

Amendment III

Article VIII of the Constitution entitled "Land" is hereby amended in its entirety to read as follows:

"Section 1. Land Transactions - Subject to any limitations imposed by this Constitution and Bylaws, to any applicable Federal statute and to the approval of the Secretary of the Interior, the Tribal Council may:

(1) Purchase or receive by gift or relinquishment land or any interest therein, and may lease, exchange (with or without the giving or receipt of other consideration), encumber, and assign tribal lands or any interest therein; and

(2) Adopt ordinances or resolutions governing any or all such transactions.

"Section 2. Saving Clause - Nothing herein shall be held to impair rights heretofore acquired in any allotment or assignment held by any individual."

CERTIFICATION OF ADOPTION

Pursuant to an order approved January 20, 1960, by the Assistant Secretary of the Interior, the attached amendment to the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation was submitted for ratification to the qualified voters of the Salish and Kootenai Indian Tribes and was on April 1, 1960, duly ratified by a vote of 617 for, and 329 against, in an election in which at least 30 percent of those entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

(sgd.) Jerome Hewankorn
Vice-Chairman, Tribal Council,
Confederated Salish and Kootenai Tribes

(sgd.) E. W. Morigeau
Actg. Secretary, Tribal Council,
Confederated Salish and Kootenai Tribes

(sgd) Charles S. Spencer
Superintendent, Flathead Agency

APPROVAL

I, Fred A. Seaton, Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment III to the Constitution of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, to be effective as of April 1, 1960, the date of the ratification by the qualified voters of the tribes.

Approval recommended:

(sgd) Glenn L. Emmons
Commissioner, Bureau of Indian Affairs

(sgd) Fred A. Seaton
Secretary of the Interior
(SEAL)

May 5, 1960 Washington, D. C.

CONSTITUTION AND BYLAWS
of the
SALISH AND KOOTENAI TRIBES
of the
FLATHEAD RESERVATION
MONTANA

Amendment IV

Section 7 of Article I of the Bylaws entitled "The Tribal Council" is hereby amended to read as follows:

"Section 7. Regular meetings of the Tribal Council shall be held on the first Friday of January, April, July, and October, at 9:00 o'clock a.m., at the Flathead Agency."

CERTIFICATION OF ADOPTION

Pursuant to an order approved January 20, 1960, by the Assistant Secretary of the Interior, the attached amendment to the Bylaws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation was submitted for ratification to the qualified voters of the Salish and Kootenai Indian Tribes and was on April 1, 1960, duly ratified by a vote of 825 for, and 117 against, in an election in which at least 30 percent of those entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

(sgd) Jerome Hewankorn
Vice-Chairman, Tribal Council,
Confederated Salish and Kootenai Trib

(sgd) E. W. Morigeau
Actg. Secretary, Tribal Council,
Confederated Salish and Kootenai Tribe

(sgd) Charles S. Spencer
Superintendent, Flathead Agency

APPROVAL

I, Fred A. Seaton, Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment IV to the Bylaws of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, to be effective as of April 1, 1960, the date of the ratification by the qualified voters of the tribes.

Approval recommended:

(sgd) Glenn L. Emmons
Commissioner, Bureau of Indian Affairs

(sgd) Fred A. Seaton
Secretary of the Interior
(SEAL)

May 5, 1960 Washington, D. C.

UNITED STATES OF AMERICA
GENERAL SERVICES ADMINISTRATION

National Archives and Records Service
Washington, D.C. 20408

DATE: August 5, 1970

REPLY TO ATTN OF: NNR

SUBJECT: Request for certain information about the Flathead Indian Reservation.

St. Ignatius, Montana 59865

The enclosed electrostat of a listing of the laws and treaties relating to the Flathead Indian reservation which appears in The House Resolution Authorizing the Committee on Interior to Conduct an Investigation of the Bureau of Indian Affairs (House of Representatives No. 2503, Union Calendar 790, 82d Congress, 2d Session) is for your information.

If you wish to order copies of any of the documents listed in the enclosure, may we suggest that you write to the Photo Duplication Service, Library of Congress, Washington, D. C. 20540.

Richard S. Maxwell
RICHARD S. MAXWELL
Assistant Director
Social and Economic Records Division

Enclosure

FLATHEAD OR SALISH INDIANS

Flathead or Jocko Reservation, Mont.

There were 3,630 Flathead or (Salish) and Kutenay Indians on this reservation in 1945 [1] and an estimated 3,894 Indians in 1950. In 1929, Bitter Root, Carlos band, Lower Kalispel and (Upper) Pend d'Oreille Indians were also listed as being on the reservation.[2] The original area was 1,248,000 acres, of which 664,372 acres of allotted lands had been patented in fee, sold or

otherwise alienated in 1934.[3] In 1950, the area consisted of 629,922 acres (232,102 acres, trust allotted; 397,820 acres, tribal; 1,283 acres, reserved by the government).

A treaty of July 16, 1855, with the Flathead Nation, consisting of the Confederated Tribes of Flathead, Kutenay and Upper Pend d'Oreille Indians, ceded certain lands in Montana and Idaho to the United States in return for a reservation in Montana for the confederated tribes and friendly tribes of Washington, who wished to consolidate with them under the designation of "Flathead Nation", certain payments, etc., over a period of years and exclusive fishing rights in the reservation. The President was authorized to have lands allotted in severalty, allotments to consist of from one-eighth to one section, or more, and to issue patents therefor conditioned on non-alienation, leases limited to two years and tax exemption, etc. (12 Stat. 975–979).

A treaty of October 17, 1855, with the Flathead Nation and the Nez Perce Indians, west of the Rocky Mountains, and the Blackfoot Nation, east of the Rocky Mountains permitted the Flathead Nation to hunt east of the Rockies (11 Stat. 657–662).

An act of June 5, 1872, amended June 22, 1874, provided for removal of the Flatheads from Bitter Root Valley in Montana to the Jocko Reservation, Mont., set apart under the treaty of July 16, 1855, above. Lands in Bitter Root Valley were to be opened for settlement and proceeds from sale paid into the Treasury and an annual appropriation of $5,000 made for ten years, to be expended by the President for the benefit of the Indians who settled on the Jocko reservation (17 Stat. 226–227, c. 308; 18 Stat. 173, c. 389).

An act of July 4, 1884, ratified an agreement of September 2, 1882, with the Flatheads authorizing a right of way through the reservation and appropriated $16,000 to pay the Flatheads (23 Stat. 89, c. 180).

An act of March 2, 1889, amended July 1, 1898, provided for sale of lands allotted to Flatheads in Bitter Root Valley, Mont., with consent of the individual Indians, and deposit of proceeds in the Treasury to the credit of the individual Indians. The Secretary was authorized to pay cash to them or expend the money for their benefit. The Indians were to be moved to the Jocko Reservation in Montana (25 Stat. 871–872, c. 391; 30 Stat. 596, c. 545, § 9).

An act of April 23, 1904, amended March 3, 1905, June 21, 1906, May 29, 1908, March 3, 1909, April 12, 1910, and February 28, 1919, provided for allotments to be made to the Confederated Tribes of Flathead, Kootenai, and Upper Pend d'Oreille Indians and other Indians on the reservation, including Lower Pend d'Oreille or Kalispel Indians. Residue of lands was to be opened to settlement, except for certain lands reserved for missions, government agencies, etc., a biological station for the University of Montana and 5,000 acres of timber lands for use of said Indians. Proceeds from sale of lands were to be deposited in the Treasury and after deducting funds for irrigation, one-half of the remaining funds were to be expended by the Secretary for the benefit of the Indians and the other half was to be paid to the Indians on the reservation, semiannually, as the same became available, share

and share alike, except that the Secretary was authorized to withhold pro rata shares for irrigation charges. The amending act of 1906 authorized the Secretary to reserve town sites and 160 acres at hot springs near Camas, moneys derived from the springs to be for the benefit of the Indians. The amending act of 1909 permitted the Secretary to reserve lands for power or reservoir sites (45,714 acres were reserved). Under the amendment of 1910, sale of not more than 60 acres of allotted lands, upon application of the allottee, was authorized, half of proceeds to be paid to the allottee and half to be held in trust at three percent interest, which interest was to be paid to the allottee annually and the remaining principal paid to the allottee or heirs when the trust patent expired, or sooner in the discretion of the Secretary. Lieu lands were to be given for allotments on power or reservoir sites, to be enforced by condemnation proceedings if necessary. The amendment of 1919 provided for designation of land as valuable for stock-watering and required existing trails to be kept open to same (33 Stat. 302–306, c. 1495; 1080–1081, c. 1479, § 9; 34 Stat. 354–355, c. 3504; 35 Stat. 449–450, c. 216, 795–796, c. 263; 36 Stat. 296–297, c. 156; 40 Stat. 1203, c. 71).

An act of May 23, 1908, amended March 4, 1909, authorized reservation of 20,000 acres of the reservation for the National Bison Range and $30,000 was appropriated to pay the Indians on the reservation for their lands (35 Stat. 267, c. 192, 927, c. 298, 1051, c. 301).

An act of April 4, 1910, provided for reimbursement of appropriations for irrigation systems for allotted and unallotted irrigable lands (36 Stat. 277, c. 140).

An executive order of February 15, 1912, reserved certain lands in the reservation for a town site and an executive order of April 13, 1912, reserved other lands.

An act of July 10, 1912, authorized sale of lands to the city of Ronan, proceeds to be credited to the Flathead Indians, to draw interest at the rate provided by law and to be used for the benefit of said Indians (37 Stat. 192, c. 229).

Executive Order 1682 of January 14, 1913, reserved certain lands on the reservation for administrative purposes.

An act of May 18, 1916, authorized the opening of lands on the reservation, formerly classified as timber lands, to homestead entry; payment was to be made for timber in addition to the price of the land (39 Stat. 139, c. 125).

An act of May 18, 1916, regulated the payment of irrigation charges on lands allotted in severalty and allotted lands that had been sold; tribal funds which had been covered into the Treasury for irrigation construction charges were to be placed to the credit of the tribe and to be available for expenditure for the benefit of the tribe (39 Stat. 141, c. 125, § 11).

An act of June 27, 1918, authorized the Secretary to convey 120 acres of land in the reservation to a certain individual, said land to remain under government control (40 Stat. 616–617, c. 106).

An act of January 7, 1919, authorized sale of land to a school district, proceeds to be deposited to the credit of the Flathead

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Indians, to draw interest as provided by law and to be used for the benefit of the Indians on the reservation, provided Indian children were admitted to attend school on equality with white children (40 Stat. 1053, c. 5).

An act of February 14, 1920, authorized exchange of 200 acres of land with the State, in lieu of a portion of the reservation reserved for school lands (41 Stat. 421, c. 75, § 10).

An act of February 25, 1920, amended June 16, 1950, authorized allotments to all unallotted living children enrolled or entitled to enrollment with the tribe; 40 acres of each allotment was to be designated as a homestead and was to be inalienable and nontaxable during minority; the first cutting of timber on timber land allotments was to be reserved for tribal benefit and title to residual timber was to pass to the allottees, etc. (41 Stat. 452, c. 87; Public Law 557, 81st Cong.).

An act of May 31, 1924, authorized addition of certain descendants of the Confederated tribes, to the final roll and per capita payments to such Indians (43 Stat. 246, c. 215).

An act of March 13, 1924, amended February 3, 1931, conferred jurisdiction on the Court of Claims to determine claims of Flathead, Kootenai, and Upper Pend d'Oreille Tribes on the reservation under treaty of July 16, 1855, above, and provided that the amount of any judgment was to be deposited in the Treasury to the credit of the Indians and was to draw interest at four percent (43 Stat. 21, c. 54; 46 Stat. 1060, c. 101).

An act of May 10, 1926, required contracts for repayment of irrigation construction charges and also required disposal of holdings in excess of 160 acres of land on the reservation, but trust patent Indian lands were not to be subject to these provisions until issuance of a fee patent (44 Stat. 465, c. 277).

An act of March 7, 1928, authorized the Federal Power Commission to issue licenses for water power developments on the reservation; rentals were to be paid to the Indians as a tribe and deposited in the Treasury at four percent interest (45 Stat. 212, c. 87).

An act of March 7, 1928, directed the Federal Power Commission to waive fees for issuance of water power permits or licenses on the reservation (45 Stat. 1640, c. 707).

An act of April 4, 1938, authorized lease of lands for agricultural and grazing, etc., purposes, on irrigation projects, reserves, etc., funds derived therefrom to be deposited to the credits of the tribe; consent of the tribe to lease of tribal lands was required if the tribe was organized (52 Stat. 193, c. 63).

An act of June 24, 1946, provided that tribal funds of the Confederated Salish and Kootenai Tribes on the reservation were to be available for purposes designated by the tribal council and approved by the Secretary (60 Stat. 302, c. 460).

An act of July 30, 1946, conferred jurisdiction on the Court of Claims to adjudicate claims of the Confederated Salish and Kootenai Tribes on this reservation. The amount of any judgment was to be placed in the Treasury to the credit of the Indians, at four percent interest, and was to be subject to appropriation by Congress for the benefit of the Indians (60 Stat. 715–716, c. 761).

An act of May 20, 1948, authorized conveyance of certain lands on the reservation to the State of Montana (62 Stat. 248, c. 325).

An act of May 25, 1948, authorized reimbursable appropriations of $64,570.56 to repay the Confederated Salish and Kootenai Tribes of the Reservation amounts due them under the act of May 18, 1916, above, and $100,000 in settlement of claims for use of tribal lands for irrigation and power systems or wildlife refuges; the tribes were to have the right to use such tribal lands and grant leases or concessions thereon, for purposes not inconsistent with such permanent easements (62 Stat. 272, c. 340, § 5).

An act of August 18, 1949, authorized a patent in fee to about five acres of land to be issued to Lake County, Mont., with the consent of the tribal council (63 Stat. 614, c. 472; Public Law 245, 81st Congress).

An act of August 19, 1949, authorized an appropriation for repair, etc., of the drainage system for lands within the city of Polson, Mont., on the reservation; the city was to operate same in perpetuity (63 Stat. 621, c. 487; Public Law 255, 81st Congress).

IN THE DISTRICT COURT OF THE UNITED STATES,

FOR THE DISTRICT OF MONTANA,

MISSOULA DIVISION.

UNITED STATES OF AMERICA,

Plaintiff,

V.

B.W. ALEXANDER, BECKWITH MERCANTILE COMPANY, a Montana Corporation, JOHN A. HAZEL, THEODORE KNUTSON and EDNA I. KNUTSON, his wife, P.W. SORENSEN, AVERY A. STEVENS, MEIL C. PIERCE, BERT LISH, BERT MYERS NELSON, JOHN ELLIS, J.A. McKEEVER, AXEL ERICKSON, JOHN MINESINGER and ADA B. MINESINGER, his wife, and THOMAS WALD,

Defendants.

No. 1529.

FINDINGS OF FACT, CONCLUSIONS OF LAW and ORDER.

On May 6,1940, this cause came duly and regularly on for trial before the Court, sitting without a jury, at Missoula, Montana, on the issues joined by the Amended Complaint and the Amended Answer thereto and the Complaint in Intervention and the Answers thereto. The Plaintiff was represented by the Honorable John B. Tansil, Attorney of the United States for the District of Montana, and the Honorable Kenneth L.R. Simmons, District Counsel, Indian Service; the Defendants were represented by Mr. Lloyd I. Wallace, and the Interveners by Mr. Russell E. Smith. The taking of testimony was begun, and not being concluded on that day the further trial of the case was continued from day to day thereafter until May 8, 1940, at which time the taking of testimony was concluded, and the parties plaintiff, defendant and intervener asked for and were by the Court granted time to file briefs herein, and it was ordered that a transcript of the testimony taken and the proceeding had at the trial be furnished for the use of the court. Briefs were filed by the respective parties plaintiff, defendant and intervener within the time allowed by the Court, the last thereof being filed on July 6, 1940, and transcript of the testimony taken and proceedings had at the trial of the case was furnished to the Court as directed, and thereupon the cause was by the Court taken under advisement.

CONCLUSIONS OF LAW

1: The waters flowing on the Flathead Indian Reservation in Montana were impliedly reserved to the Indians by the Treaty of July 16, 1855;

2: The United States of America became a trustee holding the legal title to the land and waters on the Flathead Indian Reservation in Montana for the Benefit of the Indians of that Reservation;

3: Being reserved no title to the waters on the Flathead Indian Reservation in Montana could be acquired by anyone except as specified by Congress;

4: The Act of May 29, 1908, Sec. 9, 35 Stat. 448449, allocated to each parcel of irrigable land on the Flathead Indian Reservation in Montana allotted to an Indian in severalty a right to the use of such waters on the Flathead Indian Reservation "as may be required to irrigate such land";

5: In the event that the supply of water on the Flathead Indian Reservation in Montana is insufficient to furnish that amount of water to all irrigable lands allotted to Indians on that Reservation in severalty the provisions of the general allotment act (Act of February 8, 1887, C. 119, Sec. 7, 24 Stat. 390; Sec. Title 25, U.S.C.A.) requiring "just and equal distribution" of the water on said Reservation applies;

6: No right to the use of water on the Flathead Indian Reservation in Montana could be, or has been, acquired by the United States of America, or anyone else, by prior appropriation pursuant to local statute or custom;

7: Section 19 of the Act of June 21, 1906, 34 Stat. 325,355 granted nothing, but is a saving clause;

8: When an allotment of irrigable land on the Flathead Indian Reservation in Montana was duly made to an Indian of that Reservation and it was thereafter conveyed by him in fee the right to the use of such an amount of water "as may be required to irrigate such land", if the water available is sufficient to supply all other similarly situated, whether an Indian allottee or the successor in interest of an Indian allottee, with that amount of water for use on allotted irrigable lands in the Flathead Indian Reservation in Montana, passed to the owner of such land; and, in the event that the supply of water is insufficient to furnish that amount of water to the irrigable lands on the Flathead Indian Reservation in Montana allotted to Indians of that Reservation in severalty the Indian allottee, and his successor in interest, acquired and continues to have the right to a "just and equal distribution" of the waters on the Flathead Indian Reservation in Montana;

9: By Section 7 of the Act of February 8, 1887, C. 119, 34 Stat. 390; Sec. 381, Title 18, U.S.C.A., THE Secretary of the Interior was authorized to prescribe rules and regulations to secure a just and equal distribution of the water on the Flathead Indian Reservation in Montana among the Flathead Indians; but, he was not thereby, or by any Act of Congress, or otherwise or at all, authorized by rule, regualtion or otherwise to deprive any allottee or the successor in interest of any allottee of irrigable lands in the Flathead Indian Reservation in Montana of the right to the use of such an amount of water "as may be required to irrigate such land", or a "just and equal distribution" of the waters on the Flathead Indian Reservation in Montana;

10: Adoption by the Secretary of the Interior of plans for irrigation projects to serve certain irrigable lands on the Flathead Indian Reservation in Montana was not enough to indicate a purpose to exclude all other land from participation in essential water and thereby destroy the equal interest guaranteed by the Treaty of July 16, 1855;

11: The contentions of the Plaintiff and the Interveners herein that prior to the Treaty of July 16, 1855, all rights in and to the waters of the streams on the Flathead Indian Reservation in Montana and their tributaries were the property of the Plaintiff that all such rights were by said Treaty reserved to the Plaintiff and have never been relinquished; that no one else-Indian or White---has ever had the right to divert or use any of said waters without Plaintiff's consent; that no such right was conveyed to or acquired by any patentee of allotted lands in the Flathead Indian Reservation of Montana, or their successors in interest; and that, in diverting and using said waters for the irrigation of their lands the Defendants herein were trespassers, and unsupported by authority;

X 12: The waters flowing in the streams on the Flathead Indian Reservation in Montana and their tributaries were reserved by the Treaty of July 16, 1855, to the individual Indians of the Flathead Tribe and not to the Tribe, and under that Treaty each member of the Flathead Tribe of Indians secured a vested right in the use of sufficient water to irrigate his irrigable lands in said Reservation to the full extent of the soil thereof, and such right had priority as of July 16, 1855; and,

13: What right, if any, the Plaintiff, the Defendants and the Interveners herein, or either or any of them, may have to divert or use the waters of the streams flowing in the Flathead Indian Reservation in Montana and their tributaries cannot be determined in this action in equity. Such a determination would directly and materially affect all owners of land within the Reservation, many of whom are not parties to this action in equity.

It follows that it must be, and it is hereby, ordered:

That the complaint in this action be dismissed without prejudice; and,

That the complaint in intervention herein be dismissed without prejudice.

Judgement will be entered accordingly.

Done in open court at Butte, Montana, July 31, 1941.

James H. Baldwin
United States District Judge in
and for the District of Montana.

SEE: Winters v. United States, 207 U.S. 564;
United States v. Powers, CCA 9th C., 94 Fed. 2nd. 783;
United States v. Powers, et al., 305 U.S. 527;
United States v. McIntire, et al., CCA 9th C., 101 Fed. 2nd. 650

sec - 104 (2) 334

To the owners of private ditches, built prior to FIP the govt. thru the Sec of Int. granted discretion to choose which system they were under. They could choose ether closed source system or the multi-source FIP system with reservoirs, pumps, and inter-connecting canals. But to all others there was no choice. If it was irrig. from FIP it was under F.I.P. and

Owners of FIP system would be responsible for Operation & Maintenance of their own system.

SCHEER v. Moody, and nine other cases.
Nos. 527, 795-800, 804, 902, 903.

District Court, D. Montana

March 9, 1931.

1. Waters and water courses—143, 222.

Right, if any, to water through private ditches or from irrigation project is limited to water reasonably necessary.

2. Waters and water courses—222.

Interference by manager of reclamation project with private ditches and water rights, if established, would constitute trespass, rendering manager personally liable.

3. Officers—114.

In absence of statutory authority, governmental officer acts at his peril and is personally liable for wrongs.

4. United States—125(2)

Suits against manager of federal reclamation project based on manager's trespass on plaintiffs' water rights and private ditches would not be suits against United States.

5. Waters and water courses—153.

Private ditches and water rights appurtenant to Indian allotments became property of allottees in severalty and subject to conveyance (Act Feb. 8, 1887, 24 Stat. 388; Act April 23, 1904, 33 Stat. 302, amended by Act June 21, 1906, 34 State. 355, and Act May 29, 1908, 35 Stat. 450).

6. Waters and water courses—127.

Statute governing appropriation of water by Indian allottees vests discretion in Secretary of Interior and is not mandatory (Act Feb. 8, 1887, 24 Stat. 388).

7. Constitutional law—252
Waters and water courses—222.

Right of Indian allottees and vendees to water necessary to irrigate allotted lands "without cost for construction" within certain limitation held property right, not subject to impairment by subsequent legislation (Act April 23, 1904, 33 Stat. 302, as amended by Act June 21, 1906, 34 Stat. 355, and Act May 29, 1908 35, Stat. 450; Act Aug. 1, 1914, 38 State. 583; Act May 18, 1916, 38 Stat. 140, 141; Const. U. S. Amend. 5).

Act April 23, 1904, 33 Stat. 302, allotted lands to Indians in accordance with Act Feb. 8, 1887, 24, Stat. 388. Act June 21, 1906, 34 Stat. 355, purporting to amend Act of 1904, provided that Act of 1904 was not to be taken to deprive any Indian of the use of water appropriated and used by him, or of any ditch by him constructed. Act May 29, 1908, 35 Stat. 450, also amending Act 1904, provided for reclamation project to irrigate white as well as Indian lands, but Indians to have right to water without costs for construction, and likewise any of their vendees, during the trust period, to the time of purchase. Subsequently, Act Aug. 1, 1914, 38 Stat. 583, and Act. May 18, 1916, 38 Stat. 140, 141, subjected lands of Indian allottees to construction costs to be assessed against them, in proportion to benefits received, and provided that purchasers during trust period would be exempt from only so much of construction costs as had accrued and was due in accordance with notice of Secretary of Interior.

8. Indians—2.

Authority of United States as guardian of Indians does not authorize violation of constitutional rights.

9. Waters and water courses—222.

Indian allottees and their vendees within certain limitations held entitled to appropriate water from Flathead Reclamation Project without cost for consturction (Act April 23, 1904, 33 Stat. 302, as amended by Act June 21, 1906, 34 Stat. 355, and Act May 29, 1908, 35 Stat. 450; Act. Aug. 1, 1914, 38 Stat. 583; Act May 18, 1916, 38 Stat. 140, 141).

10. Waters and water courses—222.

Fact that some of patentees of Indian allotments agreed to pay liens and assessments for irrigation project did not work estoppel to dispute validity, where lands were not subject to such charge under governing statutes (Act April 23, 1904, 33 Stat. 302, as amended by Act June 21, 1906, 34 Stat. 355, and Act May 29, 1908, 35 Stat. 450; Act Aug. 1, 1914, 38 Stat. 583; Act May 18, 1916, 38 Stat. 140, 141).

11. Indians—15(1).

Conditions imposed by Congress upon purchase of Indian allotments are valid.

12. Indians—15(1).

Congress can restrict alienation of Indian allotments, prohibit alienation, or attach reasonable conditions which vendee must perform.

13. Waters and water courses—222.

Conditions imposed by Congress upon purchasers of Indian allotments in reference to cost for construction and maintenance

of reclamation project held valid and enforceable (Act April 23, 1904, 33 Stat. 302, as amended by Act June 21, 1906, 34 Stat. 355, and Act May 29, 1908, 35 Stat. 450; Act Aug. 1, 1914, 38 Stat. 583; Act May 18, 1916, 38 Stat. 140, 141).

14. Waters and water courses—138.

Rights of successors of Indian allottees to private ditches and water rights could not be defeated by adverse possession not involving necessary and beneficial use during statutory period.

Separate suits by Inez Fuhrer Scheer, by Ira Johnson and others, by Martha G. Rider, by Harry C. Smith, by Harry W. Weston, by Stella Doney, by R. L. Burch, by H. H. Francis, by Anna Cherry, and by Gustav Nordquist and others, against C. J. Moody, individually, and as Project Manager of the Flathead Reclamation Project.

Decree in each case in accordance with opinion.

Thomas N. Marlowe, of Missoula, Mont., for plaintiff in Case No. 527.

E. E. Hershey and H. H. Parsons, both of Missoula, Mont., for plaintiffs in other cases.

Wellington D. Rankin, U. S. Atty., and Howard A. Johnson, Asst. U. S. Atty., both of Helena, Mont., and Benj. P. Harwood, Irr. Dist. Counsel, of Billings, Mont., for defendant.

BOURQUIN, District Judge.

These ten suits present like issues and are tried virtually as one. The pleadings are far from models, the answers scandalously verbose, but from them, opening statements, course of the trial, evidence, and agruments, the issues tried are as follows:

Plaintiffs are successors of allottees of lands of the Flathead Indian Reservation, to irrigate them claim private ditches and water rights, and also right to water from said project free from any of its cost of construction. Defendant is manager of said project, denies the private rights, but concedes that of water from the project, provided charges assessed for construction be paid, obstructs the use of private ditches and water, assesses charges, interposes that his acts are in behalf of the United States and he immune from these suits, and that limitations have run even in favor of the United States against its wards, plaintiffs' predecessors in title.

The relief sought is injunction against defendant's interference and assessments, and that plaintiffs' titles be cleared and confirmed.

The defense is by government counsel, the district attorney also appearing as amicus curiae, but abandoning that character, he is active in behalf of the defendant.

Some of "history" and of "policy" to which the parties appeal are material, and all, interesting—parts of the humiliating record of our oppression, expropriation, dispersion, and destruction of the Indian nations which formerly exercised dominion over all this broad land. To recall no more than necessary, however, for time immemorial and in 1855, the Flathead and other Indians, many, many thousands, free, content, and happy, were natural owners, occupants, and overlords of all the vast domain west of the Continental Divide and within what is now Montana. Rich and lovely, as that region was and is, as always, it excited white avarice and intrigue to oust the red; as always, the alibi, uplift, and civilization. Thereupon was invoked the established policy, "buy when you can —cheap, fight when you must," and in behalf of the United States Isaac I. Stevens negotiated a "treaty," with some eighteen Indians styled "chiefs, headmen, and delegates of the confederated tribes." 12 Stat. 975.

To promote a favorable atmosphere, Stevens gave to the few Indians assembled a small quantity of brilliant beads, gaudy calicoes, and other gewgaws of the "trade goods" of the time, and to insure the chiefs' complacency promised each of them $500 yearly for 20 years, house, furniture, and garden. And for the Indian thousands were to be expended, $120,000 apportioned over a series of years.

In consideration thereof the delegates, like another Esau, assumed to convey to the United States all this extensive empire, their tribal birthright, save about one-eighth reserved for continued use by the Indians, cribbed, cabined, and confined. Natural advantages and intrinsic values taken into account, the deal cast into the shade Manhattan's famous bargain. This treaty and reservation had many counterparts the country over, and even as Ahab the vineyard of Naboth, the whites exceedingly coveted these fragments of Indian empire. Their appetite grew by what it fed upon. Accordingly, and as always, the indefatigable lobby besieged Congress, which as often capitulated, with sequelae as follows: Our Indian policy had so far attained its objective by 1871, that it was enacted (16 Stat. 566) that the independence of Indian nations would no longer be recognized, and their right to treaty was repudiated.

The Act of Feb. 8, 1887 (24 Stat. 388, authorized the President to compulsorily allot limited acreage of reservations to individual Indians, to whom, after a trust period, would issue patent in fee "free of

all charge or incumbrance whatsoever," (Section 5 [25 USCA Section 348]), and to negotiate the purchase of the excess lands; and likewise the Secretary of the Interior to prescribe rules for just distribution to Indians of water for irrigation. The carefree rovers of forests and plains were perforce to be transformed into toiling agriculturists, and yielding to the inevitable, these unfortunate peoples sought to accommodate themselves to bureaucratic fashioning. Even prior to the Act of 1887 as well as thereafter, the Indians constructed ditches and applied water to the land, on this reservation as on others.

In 1904 the President having failed to act, but not so the lobby, it was enacted (33 Stat. 302) that these lands be allotted in accordance with the Act of 1887, and the excess lands sold at prices fixed by a commission of five, two of whom would be of "tribal relations" though not necessarily Indians, and the proceeds devoted (1) to pay expenses, (2) one-half any excess to be expended for irrigation ditches, etc., for the Indians, and (3) the other half to be held by the United States as trustee until to the Indians delivered. By amendment in 1906 (34 Stat. 355), the Act of 1904 was not to be taken to deprive any Indian "of the use of water appropriated and used" by him, or of any ditch by him constructed.

In 1908 the rather state socialistic policy of governmental irrigation of private as well as public lands, initiated in 1902 (32 Stat. 388), had not yet demonstrated its startling possibilities [see Donohoe's Case (D. C.) 33 F. (2d) 362], and the ambition other desert worlds to conquer inspired an Act of May 29, 1908 (35 Stat. 450) amending the Act of 1904 and providing for the project in suit to irrigate white as well as Indian lands, the cost to be paid with proceeds of sales of excess lands and including the trust fund created by the Act. of 1904, the purchasers of excess lands to some time pay a due proportion of the cost, but Indians to have right to water without costs for construction, and likewise any of their vendees during the trust period, to the time of purchase.

Later in 1908 all the lands in suit were allotted to Indians, trust patents issued, and thereafter fee patents and conveyances to plaintiffs. At the time of allotment and thereafter, but prior to subsequent legislation wherein the government sought to renege in respect to assumed overliberal provision for irrigation water for Indians, the allottees had constructed ditches to and upon these lands, and in their irrigation had appropriated and used the waters claimed by plaintiffs, with the secretary's sanction and aid; and therein they and their vendees continued without question of their right and title until defendant's intereference in 1917, from which time he required that they, as some perforce did, apply to him and pay for water.

In 1909 construction began and yet continues in fashion of governmental business ventures, promises indefinite if not permanent prolongation, and the cost or that charged at least is $65 per acre, the limit unless landowners consent to more, to be reimbursed to the government over a period of 65 years, without interest, equivalent to present cancellation of 75 per cent of the principal of the debt.

Incidentally, although this irrigation adventure is one aspect of that state socialism which, like it or not, is the trend of the times, none the less the West having profited, however much it abuses sound principles and costs government (and that's a plenty), are human enough to rejoice in its local benefits and to hope even more of the landowners' debt be canceled, at least before are any more of the European debts.

By 1914 was a sorrowful awakening to the fact that the proceeds of excess lands were woefully inadequate to liquidate surprisingly mounting expenditures upon this project, and this inspired the act of that year (38 Stat. 583) providing that not tribal funds but the public treasury would bear the burden, and Indians too would pay for construction costs to be assessed against them, in proportion to benefits by them received. In natural course followed the Act of 1916 (39 Stat. 140, 141), which not only assesses construction costs against the lands of Indians, but provides that purchasers during the trust period would be exempt from only so much of construction costs as had "accrued" and was due in accordance with notice by the secretary—a wide opening for strategy.

For some 20 years defendant was manager of the project and until 1917 refrained from interference with these private water rights, in their exercise even permitting use of the project ditches which conflicted with the private ditches. In respect to all plaintiffs save one, defendant assesses costs of construction. Some of the fee patents declare liens for said costs, and some issued to allottees' vendees on condition they pay all assessments therefor.

The trust period by the Act of 1887 was fixed at 25 years. For those desirous to acquire the choicest of the lands allotted to Indians, this was altogether too long; and covetousness again inspired an act, that of 1906 (34 Stat. 182 [25 USCA—349]), authorizing the secretary forthwith to issue fee patent when "satisfied" of the Indian's ability to manage his own affairs, whereupon alienation is unrestricted. Even as the reasons, the effects are obvious, and it is surprising how fast the Indians de-

velop that ability or at least interested parties satisfy the secretary they have; for they are being rapidly separated from their lands, and however necessary to better the record and save the face of reservation projects, the erstwhile Indian owners are hopelessly cast adrift on a strange competitive sea which threatens their wreck upon the reefs of pauperism—the evil climax of a worse policy applied to a dependent and unhappy people.

Upon this project, however, the land allotted to the Indian today may be sold by him tomorrow, the secretary consenting, whether or not the allottee possess the ability aforesaid, which accentuates the evil. The plaintiffs are purchasers of allotted lands, and in the main stand in the shoes of their Indian predecessors in title. Of little value without water for irrigation, the worth of the lands is greatly enhanced by a sufficient supply of that essential commodity, which in general is one inch per acre.

[1-4] It thus appears plaintiffs claim two water rights: First, private ditches and water free from project control and charges; second, project water without cost save for maintenance and operation. In either case, any such right is limited to water in equality with all other like users and to the extent reasonably necessary. Whether resort be had to one or both rights, the limit of use is reasonable necessity. Adverting to the claim of private ditches and water rights, if established, defendant has no control over them, and his interference with plaintiffs' enjoyment of them is mere trespass for which he must personally account and for which his employment is no defense. Unless justified by some constitutional statute, a governmental officer or employee acts at his peril and personally pays for his wrongs—a salutary principle necessary to discourage abuse of power, that official power which the great Marshall declared would be abused whenever authority was reposed. And suits against any such trespasser are not against the government, these suits, not against the United States. Rather do they serve the United States to discipline its derelict agent whose excesses tend to defeat its obligations and to bring it into disrepute. See Sloan v. Corp., 258 U. S. 566, 42 S. Ct. 386, 66 L. Ed. 762; U. S. v. Lee, 106 U. S. 220, 1 S. Ct. 240, 27 L. Ed. 171; Philadelphia v. Stimson, 223 U. S. 620, 32 S. Ct. 340, 56 L. Ed. 570; Stanley v. Schawlby, 147 U. S. 518, 13 S. Ct. 418, 37, L. Ed. 259; Magruder v. Belle Fourche Valley Water Users' Ass'n (C.C.A.) 219 F. 72, 78. Whether by reason of contracts involved the plaintiffs might sue the United States, or the latter intervene, is not before the court.

[5] That these ditches and water rights are private property is clear. The ditches were built by and for Indians and for the lands in suit, and the water by these ditches conveyed was upon these lands used. Thus appropriated, ditches and water rights became appurtenant to the Indians' allotments, and like the allotments themselves, their property in severalty. And as such, they could as they did convey them to plaintiffs. Not only did necessity, custom, and usage of the country, applicable to Indians as to whites, sanction these appropriations, but the statute of 1887 authorized them, and the statute of 1906 recognized and confirmed the Indians' titles were that necessary.

To whatever extent the United States expended money in construction of these particular ditches, it was of the ordinary appropriations in support of a people whose original sources of livelihood had by government been appropriated, and whether to pay a debt, or to appease uneasy conscience, was not to be reimbursed. It was an executed gift at least, and as such never questioned, until the present attempt to impose this gift of near 40 years ago as part of the construction costs of the project and in part assessed against these very plaintiffs through their right to the ditches is denied. But that too might better the appearances of the project's finances.

Though the character of the money so expended be immaterial, it is worthy of note that plaintiffs' requests for certified copies of departmental records to disclose its sources were denied unless the court would certify needed. This, the court refused to do, adhering to Carson's Case (D.C.) 14 F.(2d) 559, and declining to sanction abuse and flatter the ego of power. Significantly enough, without any such certificate the defendant at trial turned up in possession of all thereof assumed necessary to serve his defense.

The employee of the United States is given an unfair advantage over plaintiffs. And yet it is a fundamental principle that in court and before the law all are equal, the humblest with the greatest or even with government itself. That this is more observed in theory than in practice, however, was declared by Cato some 2,000 years ago, and of frequent advertence as a modern instance now historical, are the notorious "whispering wires" or Olmstead Cases (see 276 U. S. 609, 48 S. Ct. 207, 72 L. Ed. 729; 277 U. S. 438, 48 S. Ct. 564, 72 L. Ed. 944, 66 A.L.R. 376), wherein the humble petitions for review of individuals deprived of liberty were twice denied, but later granted—it is said at the instance of the telephone corporation in behalf of its property assumed to be involved; and,

believe it or not, the review was strictly limited to the telephone issue.

[6] Immaterial is it also whether or not the allottees' appropriation of the waters was pursuant to rules by the secretary prescribed as authorized by the Act of 1887 aforesaid. The statute vests discretion in the secretary, is not mandatory, and is intended to restrict the recognized right of appropriation only so far as in the judgment of the secretary its exercise in absence of controlling rules would work injustice. Rules or not, the Indians' necessities were as great, their right to appropriate water no less, save to the extent exercised inequitably. And as before noted, the Indians' appropriations of water were known to, sanctioned by, and acquiesced in by the secretary, more effective than any of his rules and for which he perceived no necessity.

In the matter of project water, the treaty assured to the Indians right of occupancy of the reservation forever. Congress, however, in disregard of the treaty, and by the Act of 1904 as amended by that of 1908, arbitrarily allotted to them portions of the reserved lands and deprived them of the excess. By way of consolation, if not compensation, Congress agreed to construct an irrigation system with proceeds of the excess lands, from which the Indian allottees would have right to water necessary to irrigate their allotted lands "without cost for construction," and their vendees during the trust period, like use without costs "incurred up to the time of purchase." It is obvious that this exemption was not a pure gratuity, for construction was to be paid from tribal funds.

[7] Nevertheless it created valuable rights in behalf of Indians and their vendees, assuring the Indian a home capable of supporting him, without any personal liability or lien on his land, and potentially of greatly increased sales value. This right is property, within the protection of the Fifth Amendment, and beyond impairment by the Acts of 1914 and 1916 which assume to destroy it. It will not do to say that the Indians paying the cost of the project in any event, the later legislation is merely an administrative change in the Indians' funds made liable. For a tribal liability is as distinct from an individual liability and lien, as night from day. Congress controls the former but cannot the latter. Granting that the project could have been abandoned without completion when tribal funds were dissipated and failed, it is clear it could not proceed in divestiture of the rights aforesaid, the Indians "improved" out of their homes, crushed by an enormous debt imposed upon them individually and upon their lands held in severalty. See Choate v. Trapp, 224 U. S. 665, 32 S. Ct. 565, 56 L. Ed. 941.

[8-9] An allotment made and "trust patent" issued, the latter equivalent to a receivers receipt, the right to water attached, the Indian is vested with the equitable title to the land and water right, the United States holds the land in trust for him to convey to him the fee clear of all charges and incumbrances when the trust period has expired. And although as guardian and administrator the United States may legislate to meet changed conditions affecting allotments, its authority does not extend to violate any fundamental right of allottees therein, to impair vested property rights without due process. See U. S. v. Rickert, 188 U. S. 436, 23 S. Ct. 478, 47 L. Ed. 532; U. S. v. Rowell, 243 U. S. 469, 470, 37 S. Ct. 425, 61 L. Ed. 848; Duncan v. Lane, 245 U. S. 310, S. Ct. 99, 62 L. Ed. 309; U. S. v. Jackson, 280 U. S. 191, 50 S. Ct. 143, 74 L. Ed 361. So that, however the project is completed, the Indian allottees are entitled to water "without cost for construction," as the statute of 1908 granted to them, and likewise their vendees save as hereinafter indicated.

[10-13] There is no warrant for claim of lien in and by the patents. No statute authorizes it. It is a nullity. That some of plaintiffs agreed to pay the liens and assessments thus reserved does not estop them to dispute their validity. For the instruments containing the covenant, read as always in the light of the law, disclose the truth that in fact and law the lands are not subject to any such charge. In so far, however, as Congress imposed conditions upon the purchase of the Indian allotments, they are valid. It can restrict alienation, forbid it altogether, and so can attach reasonable conditions which the vendee must perform.

Hence, to the extent that allotted lands are benefited by the project system, purchasers thereof during the trust period and prior to the act of 1916 are liable for costs of construction save those "incurred up to the time of such purchase," as provided by the act of 1908, and, like purchasers during said period but subsequent to the Act of 1916, are liable for such costs save those which at purchase had "accrued and become due in accordance with the public notices," as provided in the said Act of 1916. And assessments therefor can rightfully be made by defendant against any such purchaser. No doubt the liability was taken into account in fixing the purchase price paid, and though it impaired the sales value and the Indian's constitutional right, and whether or not the government will account for it to the Indian whose returns were thus diminished, are no concern of the purchaser.

INDIAN IN MOST CASES DOES NOT RECEIVE

[14] In the matter of limitations, it is a defense as mean as it is invalid, so far as urged in behalf of the United States against its Indian wards, plaintiffs' predecessors in title. After the allottees' titles passed to persons not wards of the government, the owners were subject thereto. Respecting the private ditches and water rights, the proof fails to establish that for 10 years continuously after the title to the allotted lands, to which they were appurtenant, passed from Indian wards to plaintiffs or other persons not wards, and before these suits commenced, (1) any owners of the lands had continuous need of and desired to use any particular amount of said waters upon the land; (2) any their use thereof was continuously prevented by defendant; (3) at the same time the said water by defendant continuously applied to beneficial use. That plaintiffs sometimes needed and desired to use some water for some of the land is not enough; that defendant sometimes denied plaintiffs' right, claimed for his employer, sometimes, some part obstructed, is not enough; that he for ten years continuously and completely prevented plaintiffs' need and desire for all the water would not be enough. For the only right and title to water is necessary and beneficial use, and there is no possession of it which will transfer right and title to one claiming adversely, save like necessary and beneficial use duly exercised. In its absence, denials, claims, obstruction of ditches, diversion of the water to useless onward flow, and the like, are mere trespasses without effect upon right or title. Likewise in the matter of plaintiffs' right to project water, the proof of limitations fails. In fact, their right thereto has never been denied though seldom exercised. That sometimes defendant included construction costs other than those to which purchasers are liable as hereinbefore noted, in bills to plaintiffs, also to Indians who are liable to none, goes for nothing save illustration of official lawlessnes, harassment, victimization, and oppression of a necessitous people. In view of the premises, further consideration with reference to particular cases can be brief.

In No. 527, it appears that in 1895 one McLeod and family of the Flatheads occupied 400 acres of the reservation lands for allotments subsequently made, and then timely constructed ditches and used and so appropriated for irrigation, 400 inches of the waters of Crow creek. After fee patent issued and in 1918, one of the allottees thereof sold and conveyed the 40 acres and appurtenant water right involved, to plaintiff.

There is no real conflict in the evidence that before project initiated, 35 of these 40 acres were susceptible of and were irrigated from McLeod's ditch. That in 1914 government agents observed no ditches upon the land is consistent with prior thorough irrigation. In farming, perhaps irrigating by flooding, any small distributing ditches have little permanency and tend to soon disappear. Recently a local irrigation district has contracted with the United States that it will assess and collect all costs of the project by the Secretary computed.

Accordingly, the only relief due is injunction in respect (1) to the private ditch and water to the extent of 35 inches beneficially used by plaintiff, (2) to beneficial use of project water required, and (3) costs. A purchaser subsequent to fee patent, Congress imposed no costs of construction, and so, plaintiff is liable for none. The reason no costs on such purchasers is that Congress had in mind a trust period of 25 years, and a project completed and paid for before lapse of that time. It totally forgot that a too easily satisfied secretary might cut short the period; it wholly failed to foresee the success with which government projects of the kind can be well-nigh interminably drawn out; and it overlooked the "joker" in the Act of 1908 which sanctions immediate sale by allottees, regardless of any trust period.

In Nos. 795, 796, 799, 800, and 902, in the early 1890's the Indians in occupancy of the lands for allotments in 1908 made, constructed, and maintained a ditch from Finley creek which carried its waters in sufficient quantity to irrigate the lands and which were so used as desired until defendant's interference in 1917. Some years prior to 1917 the project ditch was for some 1,000 feet substituted for the Indians' ditch to that extent filled by the former. That the lands needed the conventional inch per acre and were supplied therewith, save 40 acres in No. 799, is clearly proven. Indeed, defendant's evidence includes the findings of a "commission" of 1914 that these lands were so irrigated.

In different years, from 1911 to 1929, the allottees parted with title, in part before fee patent issued, in part after, and then or thereafter plaintiffs acquired them. This ditch supplied other allotments, but defendant a trespasser unconnected with their titles, no consideration need be given to the point by him urged that the evidence does not disclose how much water would be available for plaintiffs, did the others aforesaid require any. In any event, against him, plaintiffs are entitled to nonmolestation to the full extent of their necessities; hence, to injunction restraining defendant from interference with use of the private ditch and water in amount aforesaid, with use of project water, from assessment of costs of project construction against them.

and their lands save as hereinbefore indicated, and costs.

In Nos. 797, 798, and 903, the ditch involved is out of the Jocko river, and was constructed in 1886 and shortly thereafter, to supply the needs of Indians then later settled below it upon lands including these in suit to the Indians alloted in 1908, and from whom plaintiffs deraign title. Before the initiation of the project in 1909, these lands required, and now do require, one inch of water per acre, and had been irrigated by the allottees as follows: No. 797, 26 acres of the Ursula McLeod allotment, 40 acres of the Caroline McLeod allotment, and 40 acres of the Louise Moise allotment; No. 798, 40 acres of the Catherine Finley allotment; and No. 903, 60 acres.

The evidence of Indian witnesses to events so many years ago is difficult, but is believed sufficient to establish at least so many acres thus irrigated from this old Indian ditch. This ditch, too, supplied other allotments; but, as before, the absence of evidence whether the use of its water upon these lands to the extent aforesaid infringes the right of other allottees owners therein, is of no avail to defendant.

Plaintiffs are entitled to relief as in the five suits aforesaid.

In No. 804, the government recognizes the private right claimed to the extent of 50.4 acres of the 250 acres involved, and since as elsewhere its ditches incorporate or destroy the private ditches, from its ditches it delivers so much water to plaintiff. The allottees of these lands, plaintiff's predecessors, had constructed ditches in the 80's to convey the waters of Agency creek to irrigate some of the lands, and had also availed themselves of the Indian ditch from Finley creek mentioned in the five cases aforesaid. The evidence warrants the finding that before the inception of the project they had applied the waters from these ditches in necessary irrigation of one inch per acre, to 19 acres of the Mary Finley allotment, 20 acres of the Mary Michel allotment, and at least 34.2 acres of the White Coyote allotment. It would seem the ditches would carry more water, but the extent of the use is the measure of the right, when dilatory application has been interrupted by the government's intervening appropriation as here.

Relief is awarded as in the five cases aforesaid.

Decrees accordingly.

Counsel will present brief findings of ultimate facts so far as in issue, and not mere evidence.