Public Law 587 CHAPTER 732

August 13, 1954
[S. 2745]

AN ACT

To provide for the termination of Federal supervision over the property of the Klamath Tribe of Indians located in the State of Oregon and the individual members thereof, and for other purposes.

Klamath Indians. Termination of Federal supervision.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the purpose of this Act is to provide for the termination of Federal supervision over the trust and restricted property of the Klamath Tribe of Indians consisting of the Klamath and Modoc Tribes and the Yahooskin Band of Snake Indians, and of the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of said Indians, and for a termination of Federal services furnished such Indians because of their status as Indians.

Definitions.

SEC. 2. For the purposes of this Act:

(a) "Tribe" means the Klamath Tribe of Indians consisting of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians.

(b) "Secretary" means the Secretary of the Interior.

(c) "Lands" means real property, interests therein, or improvements thereon, and include water rights.

(d) "Tribal property" means any real or personal property, including water rights, or any interest in real or personal property, that belongs to the tribe and either is held by the United States in trust for the tribe or is subject to a restriction against alienation imposed by the United States.

(e) "Adult" means a member of the tribe who has attained the age of twenty-one years.

Tribal roll.

SEC. 3. At midnight of the date of enactment of this Act the roll of the tribe shall be closed and no child born thereafter shall be eligible for enrollment: *Provided*, That the tribe shall have a period of six months from the date of this Act in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on the date of this Act, which shall be published in the Federal Register. If the tribe fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within ninety days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals, the roll of the tribe shall be published in the Federal Register, and such roll shall be final for the purposes of this Act.

Publication in FR.

Appeals.

Final roll. Publication in FR.

Personal property rights.

SEC. 4. Upon publication in the Federal Register of the final roll as provided in section 3 of this Act, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 6 of this Act without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

Management specialists. Duties.

SEC. 5. (a) The Secretary is authorized and directed to select and retain by contract, at the earliest practicable time after the enactment of this Act and after consultation with the tribe at a general meeting called for that purpose, the services of qualified management specialists who shall—

(1) cause an appraisal to be made, within not more than twelve months after their employment, or as soon thereafter as practicable, of all tribal property showing its fair market value by practicable logging or other appropriate economic units;

(2) give each adult member of the tribe, immediately after the appraisal of the tribal property, an opportunity to elect for himself, and, in the case of a head of a family, for the members of the family who are minors, to withdraw from the tribe and have his interest in tribal property converted into money and paid to him, or to remain in the tribe and participate in the tribal management plan to be prepared pursuant to paragraph (5) of this subsection;

(3) determine and select the portion of the tribal property which if sold at the appraised value would provide sufficient funds to pay the members who elect to have their interests converted into money, arrange for the sale of such property, and distribute the proceeds of sale among the members entitled thereto: *Provided*, That whenever funds have accumulated in the amount of $200,000 or more, such funds shall be distributed pro rata to the members who elected to take distribution of their individual shares, and thereafter similar pro rata distribution shall be made whenever funds have accumulated in the amount of $200,000 or more until all of the property set aside for sale shall have been sold and the proceeds distributed: *Provided further*, That any such member shall have the right to purchase any part of such property for not less than the highest offer received by competitive bid, and to apply toward the purchase price all or any part of the sum due him from the conversion of his interest in tribal property: *Provided further*, That when determining and selecting the portion of the tribal property to be sold, due consideration shall be given to the use of such property for grazing purposes by the members of both groups of the tribe;

(4) cause such studies and reports to be made as may be deemed necessary or desirable by the tribe or by the Secretary in connection with the termination of Federal supervision as provided for in this Act; and

(5) cause a plan to be prepared in form and content satisfactory to the tribe and to the Secretary for the management of tribal property through a trustee, corporation, or other legal entity.

Expenditures authorized.

(b) Such amounts of Klamath tribal funds as may be required for the purposes of this section shall be available for expenditure by the Secretary: *Provided*, That the expenses incident to the sale of property and the distribution of proceeds of sale pursuant to paragraph (3) of this subsection shall be charged exclusively to the interests of the members who withdraw from the tribe, and the expenses incurred under paragraphs (4) and (5) of this subsection shall be charged exclusively to the interests of the members who remain in the tribe, and all other expenses under this section shall be charged to the interests of both groups of members.

Tribal property. Transfer procedure.

SEC. 6. (a) The Secretary is authorized and directed to execute any conveyancing instrument that is necessary or appropriate to convey title to tribal property to be sold in accordance with the provisions of paragraph (3) of subsection (a) of section 5 of this Act, and to transfer title to all other tribal property to a trustee, corporation, or other legal entity in accordance with the plan prepared pursuant to paragraph (5) of subsection (a) of section 5 of this Act.

Completion date.

(b) It is the intention of the Congress that all of the actions required by sections 5 and 6 of this Act shall be completed at the earliest practicable time and in no event later than four years from the date of this Act.

Non-members of tribe. Claims.

(c) Members of the tribe who receive the money value of their interests in tribal property shall thereupon cease to be members of the tribe: *Provided*, That nothing shall prevent them from sharing in the proceeds of tribal claims against the United States.

Per capita payments.

SEC. 7. The Secretary is authorized and directed, as soon as practicable after the passage of this Act, to pay from such funds as are deposited to the credit of the tribe in the Treasury of the United States, $250 to each member of the tribe on the rolls of the tribe on the date of this Act. Any other person whose application for enrollment on the rolls of the tribe is subsequently approved, pursuant to the terms of section 3 hereof, shall, after enrollment, be paid a like sum of $250: *Provided*, That such payments shall be made first from the capital reserve fund created by the Act of August 28, 1937 (25 U. S. C., Sec. 530).

50 Stat. 872.

Property of individuals.

SEC. 8. (a) The Secretary is authorized and directed to transfer within four years from the date of this Act to each member of the tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

Sales restrictions, etc. Removal.

(b) All restrictions on the sale or encumbrance of trust or restricted land owned by members of the tribe (including allottees, heirs, and devisees, either adult or minor) are hereby removed four years after the date of this Act, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid encumbrances: *Provided*, That the provisions of this subsection shall not apply to subsurface rights in such lands, and the Secretary is directed to transfer such subsurface rights to one or more trustees designated by him for management for a period not less than ten years. The titles to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance four years or more after the date of this Act shall vest in such members in fee simple, subject to any valid encumbrance.

Subsurface rights.

Land owned by more than one.

(c) Prior to the time provided in subsection (b) of this section for the removal of restrictions on land owned by more than one member of a tribe, the Secretary may—

Partition.

(1) upon request of any of the owners, partition the land and issue to each owner a patent or deed for his individual share that shall become unrestricted four years from the date of this Act;

Sale.

(2) upon request of any of the owners, and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; and

Election to purchase.

Unlocated owners. Deposit of proceeds.

(3) if the whereabouts of none of the owners can be ascertained, cause such lands to be sold and deposit the proceeds of sale in the Treasury of the United States for safekeeping.

Approval of tribal exchanges, etc.

(d) The Secretary is hereby authorized to approve—

(1) the exchange of trust or restricted land between the tribe and any of its members;

(2) the sale by the tribe of tribal property to individual members of the tribe; and

(3) the exchange of tribal property for real property in fee status. Title to all real property included in any sale or exchange as provided in this subsection shall be conveyed in fee simple.

Deceased members. 25 USC 373.

SEC. 9. (a) The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of

the members of the tribe who die six months or more after the date of this Act.

(b) The laws of the several States, Territories, possessions, and the District of Columbia with respect to the probate of wills, the determination of heirs, and the administration of decedents' estates shall apply to the individual property of members of the tribe who die six months or more after the date of this Act.

Probate of wills, etc.

(c) Section 5 of the Act of June 1, 1938 (52 Stat. 605), is hereby repealed.

Repeal. 25 USC 555.

SEC. 10. The Secretary is authorized, in his discretion, to transfer to the tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribe will derive benefit.

Federal property disposal.

SEC. 11. No property distributed under the provisions of this Act shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this Act, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That, for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation or other legal entity.

Taxes.

SEC. 12. Sections 2, 3, 4, 5, and 6 of the Act of August 28, 1937 (50 Stat. 872, 873), and section 2 (a) of the Act of August 7, 1939 (53 Stat. 1253), are repealed effective on the date of the transfer of title to tribal property to a trustee, corporation, or other legal entity pursuant to section 6 of this Act. All loans made from the reimbursable loan fund established by section 2 of the Act of August 28, 1937 (50 Stat. 872), and all other loans made from Klamath tribal funds, including loans of livestock made by the tribe repayable in kind, shall be transferred to the tribe for collection in accordance with the terms thereof.

Repeals. 25 USC 531-535. 25 USC 542(a).

Loan transfer. 25 USC 531.

SEC. 13. (a) That part of section 5 of the Act of August 13, 1914 (35 Stat. 687; 43 U. S. C. 499), which relates to the transfer of the care, operation, and maintenance of reclamation works to water users associations or irrigation districts shall be applicable to the irrigation works on the Klamath Reservation.

Klamath Reservation irrigation works. 38 Stat. 687.

(b) Effective on the first day of the calendar year beginning after the date of the proclamation provided for in section 18 of this Act, the deferment of the assessment and collection of construction costs provided for in the first proviso of the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386a), shall terminate with respect to any lands within irrigation projects on the Klamath Reservation. The Secretary shall cause the first lien against such lands created by the Act of March 7, 1928 (45 Stat. 200, 210), to be filed of record in the appropriate county office.

Klamath Reservation irrigation projects. Construction costs, etc.

(c) There is hereby authorized to be appropriated out of any funds in the Treasury not otherwise appropriated the sum of $89,212 for payment to the Klamath Tribe with interest at 4 per centum annually as reimbursement for tribal funds used for irrigation construction operation and maintenance benefiting nontribal lands on the Klamath Reservation, such interest being computed from the dates of disbursement of such funds from the United States Treasury.

Reimbursement.

(d) The Secretary is authorized to adjust, eliminate, or cancel all or any part of reimbursable irrigation operation and maintenance costs and reimbursable irrigation construction costs chargeable against Indian owned lands that are subject to the provisions of this Act,

and all or any part of assessments heretofore or hereafter imposed on account of such costs, when he determines that the collection thereof would be inequitable or would result in undue hardship on the Indian owner of the land, or that the administrative costs of collection would probably equal or exceed the amount collected.

(e) Nothing contained in any other section of this Act shall affect in any way the laws applicable to irrigation projects on the Klamath Reservation.

Water rights.

SEC. 14. (a) Nothing in this Act shall abrogate any water rights of the tribe and its members, and the laws of the State of Oregon with respect to the abandonment of water rights by nonuse shall not apply to the tribe and its members until fifteen years after the date of the proclamation issued pursuant to section 18 of this Act.

Fishing rights.

(b) Nothing in this Act shall abrogate any fishing rights or privileges of the tribe or the members thereof enjoyed under Federal treaty.

Guardians for minors, etc.

SEC. 15. Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this Act, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs, by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

Advances.

SEC. 16. Pending the completion of the property dispositions provided for in this Act, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

Patents, deeds, etc.

SEC. 17. The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this Act, or to establish a marketable and recordable title to any property disposed of pursuant to this Act.

Federal trust termination.
Publication in FR.

SEC. 18. (a) Upon removal of Federal restrictions on the property of the tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians and, except as otherwise provided in this Act, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

Citizenship status.

(b) Nothing in this Act shall affect the status of the members of the tribe as citizens of the United States.

Termination of powers.

SEC. 19. Effective on the date of the proclamation provided for in section 18 of this Act, all powers of the Secretary or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are hereby terminated. Any powers conferred upon the tribe by such constitution which are inconsistent with the provisions of this Act are hereby terminated. Such

termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this Act without the participation of the Secretary or other officer of the United States.

Individual indebtedness. Use of payment.

SEC. 20. The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by an individual member of the tribe or payable to the United States by the tribe, any funds payable to such individual or tribe under this Act and to deposit the amounts set off to the credit of the tribe or the United States as the case may be.

SEC. 21. Nothing contained in this Act shall deprive the tribe or its constituent parts of any right, privilege, or benefit granted by the Act of August 13, 1946 (60 Stat. 1049).

25 USC 70-70v.

Valid lease permit, etc.

SEC. 22. Nothing in this Act shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency and may transfer such functions, in whole or in part to a State agency with the consent of such agency and the other party or parties to such instrument.

Transfer of powers, etc.

Rules and regulations.

SEC. 23. The Secretary is authorized to issue rules or regulations necessary to effectuate the purposes of this Act, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

Repeals.

SEC. 24. All Acts or parts of Acts inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members. Effective on the first day of the fiscal year beginning after the date of the proclamation provided for in section 18 of this Act, section 2 of the Act of August 19, 1949 (63 Stat. 621, ch. 468) shall become inapplicable to the unrecouped balance of funds expended in cooperation with the school board of Klamath County, Oregon, pursuant to said Act.

Klamath County, Ore., school board.

Separability.

SEC. 25. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Education, etc.

SEC. 26. Prior to the issuance of a proclamation in accordance with the provisions of section 18 of this Act, the Secretary is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the members of the tribe to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction, and subsistence during the course of training or instruction. For the purposes of such program the Secretary is authorized to enter into contracts or agreements with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

Approved August 13, 1954.