

No. 17-56791

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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CHEMEHUEVI INDIAN TRIBE, on its own behalf and on  
behalf of its members *parens patrie*, CHELSEA LYNN  
BUNIM, TOMMIE ROBERT OCHOA, JASMINE  
SANCOUCIE, NAOMI LOPEZ,

*Plaintiffs-Appellants,*

v.

JOHN McMAHON, in his official capacity as Sheriff of San  
Bernardino County, RONALD SINDELAR, in his official  
capacity as deputy sheriff for San Bernardino County,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA, NO. 5:15-cv-01538-DMG-FFM

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**ANSWERING BRIEF OF DEFENDANTS-APPELLEES  
JOHN McMAHON AND RONALD SINDELAR**

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### **STATEMENT OF JURISDICTION**

Defendants-Appellees John McMahon and Ronald Sindelar agree with Plaintiffs-Appellants that (a) the district court had jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1362; (b) Plaintiffs appealed from a final judgment and this Court has jurisdiction pursuant to 28 U.S.C. § 1291; and (c) Plaintiffs' appeal was timely.

### **STATEMENT OF ISSUES**

In a case based on issuance of California Vehicle Code citations to members of the Chemehuevi Indian Tribe (the “*Tribe*”), primarily on Section 36 of Township 5 North, Range 24 East, in San Bernardino County, California (“*Section 36*”):

1. Did the district court correctly hold that Section 36 is not “Indian country” as defined in 18 U.S.C. § 1151(a) because the federal government had no power to set aside Section 36 as part of the Chemehuevi Reservation (the “*Reservation*”) after Section 36 was conveyed to California?
2. After California’s title to Section 36 vested upon the Surveyor General’s Office’s approval of the official survey of Section 36 on July 10, 1895, was Section 36 excluded by operation of law from a 1907 secretarial order setting aside land for the Reservation under the appropriation doctrine?
3. Did the Tribe lose any claim of aboriginal title to Section 36 that it might have had by failing to present that claim to the commissioners under the March 3, 1851 Act to settle land claims in California, 9 Stat. 631 (1851)?

4. Was any aboriginal title to Section 36 that the Tribe might have had extinguished when California's title to Section 36 vested by virtue of the Surveyor General's Office's approval of the official survey of Section 36 on July 10, 1895?

5. Did the district court correctly hold that the boundaries of the Reservation were not established until 2010 when the trust patent required by the Mission Indian Relief Act was issued?

6. Did the district court correctly hold that any right Plaintiffs might have to be free of state regulation on the Reservation is not among the "rights, privileges, or immunities" that are within the scope of 42 U.S.C. § 1983?

7. Is there a dormant aspect to the Indian Commerce Clause that could confer "rights, privileges, or immunities" within the meaning of § 1983?

### **CONSTITUTIONAL PROVISIONS AND STATUTES**

The pertinent constitutional provisions and statutes are set forth in the accompanying separately-bound addendum.

### **STATEMENT OF THE CASE**

#### **A. Statement of Facts.**

On March 3, 1853, the federal government granted to the State of California sections sixteen and thirty-six in each California township "for the purposes of

public schools.” 10 Stat. 244, 246 (1853). The Surveyor General’s Office approved the survey of Section 36 on July 10, 1895. (3 Excerpts of Record (ER) 545-546.)<sup>1</sup>

On January 3, 1907, Special Agent C. E. Kelsey recommended to the Commissioner of Indian Affairs that land in the Chemehuevi Valley “be added to the Colorado River reservation or that whatever action is appropriate be taken.” (3 ER 586.) Included among Kelsey’s recommendations was “the E. 1/2 of T. 5.N. R. 24 E,” which contained Section 36 at the very edge of a southern border. (*Id.*; 2 ER 148.) Even though the land had already been surveyed and the survey officially approved by the Surveyor General’s Office, (3 ER 545-546), Kelsey mistakenly reported that the townships that he was recommending be set aside in the Chemehuevi Valley had “not been surveyed.” (3 ER 586.)

On January 31, 1907, the Acting Commissioner of Indian Affairs wrote to the Secretary of the Interior with Kelsey’s recommendations of land to “be withdrawn from all form of settlement and entry pending action by Congress whereby they might be added to the several reservations.” (3 ER 598.) On February 2, 1907, the Secretary of the Interior forwarded the Acting Commissioner’s recommendations for land to be withdrawn, “pending action by Congress authorizing the addition of the lands described to the various Mission Indian Reservations.” (3 ER 578.)

In view of the recommendation of the Indian Office, I have to direct that the lands referred to be withdrawn from all forms of settlement or

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<sup>1</sup> Citations to the record are in the following format: volume ER page(s).

entry until further notice.... In this connection you are advised that the Department on the 31st ultimo forwarded to Congress, with favorable recommendation, the draft of a bill to authorize the addition of certain lands to the Mission Indian Reservations.

(*Id.*) (the “**1907 Secretarial Order**”).

Congress never authorized the lands in the Chemehuevi Valley to be added to any Indian reservation. However, on June 28, 2010, the Bureau of Land Management issued a trust patent for the Reservation. (3 ER 480-486.) That patent specifically excludes “[t]hose lands granted to the State of California as school sections on July 10, 1895, located in sec. 36, T. 4 N., R 25 E., and sec. 36, T. 5 N., R. 24 E [Section 36].” (3 ER 480.) It is undisputed that the land immediately south of Section 36 is not and has never been part of the Reservation; it is Bureau of Reclamation land managed by the Bureau of Land Management. (2 ER 134-135, 139, 186.)

In 2015, Defendants John McMahon (San Bernardino County Sheriff) and Ronald Sindelar (Deputy Sheriff) issued California Vehicle Code citations to the individual Tribe member Plaintiffs for various violations, including driving with a suspended license and driving without a registration. (4 ER 908-922.) Defendants issued citations to Plaintiffs Jasmine Sansoucie and Chelsea Lynn Bunim on Section 36. (4 ER 893, 909, 913).

**B. The Proceedings Below.**

Plaintiffs’ First Amended Complaint (FAC) seeks damages and declaratory and injunctive relief on the grounds that (1) Defendants violated Public Law 280, 18



U.S.C. § 1162, and 28 U.S.C. § 1360 by issuing California Vehicle Code citations on the Reservation; (2) Defendants interfered with tribal self-government; (3) state authority is preempted; and (4) Defendants violated their civil rights. (1 ER 10-11; *Chemehuevi Indian Tribe v. McMahon*, No. 15-CV-1536-DMG, 2017 U.S. Dist. LEXIS 143446, at \*1-2 (C.D. Cal. Sept. 5, 2017).) On June 2, 2017, Defendants moved for summary judgment and Plaintiffs subsequently moved for partial summary judgment on their first three causes of action. (1 ER 11; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*2-3.)

**1. The District Court’s Order Granting Summary Judgment in Defendants’ Favor and Denying Plaintiffs’ Motion for Partial Summary Judgment.**

On September 5, 2017, the district court granted summary judgment in Defendants’ favor, and denied Plaintiffs’ motion for partial summary judgment. (1 ER 11; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*3.) The district court held that “[w]hether Section 36 falls within Indian Country determines whether Defendants had jurisdiction to issue motor vehicle citations to members of the Tribe on that piece of land and is dispositive of the FAC’s first three causes of action.” (1 ER 11; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*2-3.) After a lengthy discussion of statutes and orders dating back to the mid-1850s, the district court held that “Section 36 is not Indian country as defined by section 1151(a)” because “Section 36 is not part of the Reservation, lies just outside of the Reservation and is

not within its boundaries.” (1 ER 29; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*26.)

“The salient fact is that the 1853 Act conveyed Section 36 to the State of California—thus, the Secretary could not include that land within the Reservation under the 1907 Order.” (1 ER 26; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*22-23 n.13.) While Plaintiffs argued that Section 36 was “implicitly included” within the boundaries of the Reservation “by the 1907 Order’s reference to ‘E/2 of T. 5 N., R. 24 E,’” they offered “no authority to support their position that the 1907 Order could withdraw lands from settlement—and include as part of any Indian Reservation—those lands previously conveyed to the State of California.” (1 ER 23; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*18.) In addition, “Plaintiffs position regarding California’s ownership interest in Section 36 contradict[ed] the position they took in their previous motion for preliminary injunction, wherein Plaintiffs explicitly disavowed any challenge to California’s ownership of Section 36.” (*Id.* at n.10; *see* 1 ER 100 and *Chemehuevi Indian Tribe v. McMahon*, No. 15-CV-1536-DMG, 2016 U.S. Dist. LEXIS 189513, at \*11 (C.D. Cal. Aug. 16, 2016) (“Plaintiffs do not deny that California has an ownership interest in Section 36.”).

“In order to obtain more precise visual clarification regarding the exterior boundaries of the Reservation and the lands surrounding Section 36,” the district court ordered Plaintiffs to submit a map and “requested that BIA [Bureau of Indian

Affairs] Realty Officer Stan Webb make certain colored annotations to the map in order to identify the Reservation's exterior boundaries and the location of Section 36." (1 ER 28; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*24-25.)<sup>2</sup> Mr. Webb's accompanying declaration established that "[w]hile Section 36's northern, western, and eastern sides directly border Reservation land, its southern side does not." (1 ER 29; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*25.)<sup>3</sup> "The southern edge of Section 36, therefore, does not make up a boundary of the Reservation." (*Id.*) "Rather, the Reservation's boundaries abut Section 36's northern, western, and eastern borders," and "the non-Indian land that borders Section 36's southern end is, like Section 36 itself, completely outside of the Reservation." (1 ER 29; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*25-26.) "Ultimately, Section 36 consists of an indentation located at the southern end of the Reservation," so "[t]here are no concerns with checkerboard jurisdiction in this case." (1 ER 11; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*26.)

With regard to Plaintiffs' only remaining cause of action, the district court held that Plaintiffs "failed to raise a triable issue of material fact as to their section 1983 claim" of "racial discrimination." (1 ER 31, 33; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*29-32.)

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<sup>2</sup> Mr. Webb's annotated map is in Volume 2 of the Excerpts of Record, page 139.

<sup>3</sup> Mr. Webb's declaration is in Volume 2 of the Excerpts of Record, pages 132-135.

**2. The District Court's Order Denying Plaintiffs' Motion to Alter or Amend the Judgment.**

The district court “expended much time and effort reviewing the facts in the record to ensure that it understood and took the full measure of Plaintiffs’ assertions.” (1 ER 33; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446 at \*32 n.17.) Nevertheless, Plaintiffs filed an amended motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e). The district court denied Plaintiffs’ motion, calling it a “disguised motion for reconsideration.” (1 ER 2.) The district court addressed and rejected each of Plaintiffs’ arguments:

**First**, Plaintiffs’ argument about whether Section 36 was “explicitly included in the 1907 Order ... miss[ed] the point.” (*Id.*) “The crux of the Court’s discussion on the 1907 Order was that the Secretary could not withdraw Section 36 from settlement and include it as part of any Indian Reservation because that land was already conveyed to the State of California....” (*Id.*) “Plaintiffs’ contention does not address that argument.” (*Id.*)

**Second**, the district court rejected Plaintiffs’ attacks on its holding that “Plaintiffs failed to offer any admissible evidence that the Tribe occupied or possessed Section 36 such that Section 36 could not be validly conveyed to the State of California.” (1 ER 3.) “Kelsey’s statements were inadmissible hearsay,” and while his reports “may fall under the public records exception, none of the exceptions

stated by Plaintiffs are applicable to the Tribe members' statements" to Kelsey. (*Id.*) "Rather, those statements are inadmissible double hearsay." (*Id.*)

"In addition, Kelsey's own statements do not raise a triable issue of fact even if the Court takes them at face value." (1 ER 4.) "Kelsey never made any mention of Section 36 – he only made broad assertions about the Tribe's occupation of the general area without specificity." (*Id.*) "The Tribe's presence in the general area does not establish that the Tribe occupied Section 36." (*Id.*)

**Third**, the district court did not "clearly err[]" when it failed to address whether the State of California was a 'person' as used in the MIRA and the 1907 Appropriations Act," which "constrain the Secretary of the Interior 'from issuing patents for lands where valid ownership rights have attached ... in favor of any person under any of the United States laws providing for disposition of the public domain.'" (1 ER 6-7.) "[W]hether the State of California is a person within the meaning of the MIRA and 1907 Appropriations Act is beside the point" because "[t]he Secretary was only authorized to withdraw public *federal* lands, not state lands." (1 ER 7 (emphasis in original).) "Put another way, the Secretary could not withdraw Section 36 from settlement because Section 36 was not 'public land[] of the United States' at the time of the 1907 Order – Section 36 was California land designated for school purposes by the 1853 Act." (*Id.*)

**Fourth**, the district court’s order did not “violate[] 25 U.S.C. § 398d which provides that ‘[c]hanges in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by Act of Congress.’” (1 ER 7.) “Section 398d was enacted primarily to prevent the President from unilaterally altering the size of reservations by executive order, not to prevent judicial determination of whether a reservation was validly created.” (*Id.*) “Moreover, Plaintiffs’ contention is contingent on a finding that the Secretary could include Section 36 within the boundaries of the Reservation in the first place.” (*Id.*) “The Court held that the Secretary could not.” (*Id.*)

**Fifth**, the district court rejected Plaintiffs’ argument that Plaintiffs Naomi Lopez and Tommie Ochoa’s “section 1983 claims could survive summary judgment because the Defendants violated their constitutionally protected rights to be free of state regulation while driving on the Reservation by issuing citations on Section 30, not Section 36.” (1 ER 8.) “Plaintiffs’ right to be free of state regulation ... is not within the scope of section 1983.” (*Id.*) “Section 1983 is concerned with the relationship between individuals and the state, not the distribution of power between state, federal, or tribal governments.” (*Id.*) “Therefore, without their claim of racial animus, Plaintiffs have not alleged a well-established constitutional violation for the purposes of their section 1983 claim even if Lopez and Ochoa did not receive their traffic citations in Section 36.” (*Id.*)

### **SUMMARY OF THE ARGUMENT**

Appellants’ opening brief does not even mention—let alone attempt to meaningfully address—the key issue in this appeal and the crux of the district court’s rulings: the import of the federal government’s grant of Section 36 to the State of California “for the purposes of public schools.” 10 Stat. at 246. This school land grant was a “solemn agreement” between the federal government and California, and California’s title to Section 36 vested on July 10, 1895 upon “completion of an official survey.” *Andrus v. Utah*, 446 U.S. 500, 507 (1980).

After July 10, 1895, the federal government did not have the power to include Section 36 as part of the Reservation; California’s title to Section 36 “could not be defeated after survey.” *Id.* at 511. Accordingly, Section 36 was excluded from the 1907 Secretarial Order by operation of law under the appropriation doctrine. “[O]ne of the fundamental principles underlying the land system of this country” is “that a tract of land lawfully appropriated to any purpose becomes thereafter severed from the mass of public lands, and that *no subsequent law or proclamation will be construed to embrace it or to operate upon it, although no exception be made of it.*” *Hastings & Dakota R.R. Co. v. Whitney*, 132 U.S. 357, 360-61 (1889) (emphasis added). The 1907 Secretarial Order setting aside lands for the Reservation “must, therefore, be held to apply *only* to those portions which were outside of [Section 36].” *Beecher v. Wetherby*, 95 U.S. 517, 527 (1877) (emphasis added).

While Plaintiffs do not say so explicitly, many of their arguments are based on the faulty assumption that the federal government's grant of Section 36 to California was somehow prevented by or subject to the Tribe's aboriginal title. Not so. "Aboriginal title is a 'permissive right of occupancy granted by the federal government to the aboriginal possessors of the land.'" *Lyon v. Gila River Indian Community*, 626 F.3d 1059, 1068 (9th Cir. 2010) (quoting *United States v. Gemmill*, 535 F.2d 1145, 1147 (9th Cir. 1976)).

Aboriginal title "may be extinguished by the federal government at any time," *id.*, and the federal government did so with regard to Section 36—twice. **First**, in 1853, the Chemehuevis lost any claim to Section 36 that they might have had "when they failed to present claims in the land confirmation proceedings undertaken pursuant to the Treaty of Guadalupe Hidalgo and the Act of 1851." *United States ex rel. Chunie v. Ringrose*, 788 F.2d 638, 644, 645 (9th Cir. 1986) (rejecting argument that "Indians claiming aboriginal rights were not required to file claims under the Act of 1851"). **Second**, vesting of California's title to Section 36 in 1895 extinguished any aboriginal title that the Tribe might have had. Where, as here, no "pre-existing *treaty* had preserved the aboriginal title" at the time Section 36 was conveyed to California, that "conveyance [itself] extinguished" any aboriginal title to Section 36. *Lyon*, 626 F.3d at 1078-79 (emphasis in original).



Plaintiffs’ refrain that the borders of the Reservation were conclusively established and fixed by the 1907 Secretarial Order also is incorrect. “Congress not only has a legislative power over the public domain, but it also exercises the powers of the proprietor therein.” *United States v. Midwest Oil Co.*, 236 U.S. 459, 474 (1915). “Like any other owner it may provide when, how and to whom its land can be sold” or otherwise disposed of. *Id.* That is exactly what Congress did in the Mission Indian Relief Act, which required the Secretary “to issue a patent to the land in order to include it in the reservation.” *Pechanga Band of Mission Indians v. Kacor Realty, Inc.*, 680 F.2d 71, 73, 75 (9th Cir. 1982). Just like in *Pechanga Band of Mission Indians*, in this case the Secretary “did not take the final step required under the Act to include the land in the reservation,” *id.* at 74, and the required trust patent was not issued until 2010. That trust patent specifically *excludes* Section 36.

Plaintiffs’ argument that the Supreme Court in *Arizona v. California* “confirmed that the Secretary had the authority to create the boundaries of the Reservation and include all of the lands withdrawn within those boundaries including Section 36,” (Appellants’ Opening Brief (AOB) at 16), is frivolous. After “disputes about the boundaries” of the Reservation emerged as the result of a 1974 secretarial order, the Court held that “*secretarial orders do not constitute ‘final determinations’*” of reservation boundaries. *Arizona v. California*, 460 U.S. 605, 630-31, 636-37 n.26 (1983) (emphasis added).

Finally, the district court correctly held that any right Plaintiffs may have to be free of state regulation is not within the scope of § 1983. Plaintiffs assert that their “right to be free of state regulation and control” was “created by the United States Constitution, Article I, § 8, cl. 3”—the Indian Commerce Clause. (AOB at 46.) But only the dormant aspect of the “Commerce Clause confers ‘rights, privileges, or immunities’ within the meaning of § 1983,” *Dennis v. Higgins*, 498 U.S. 439, 446 (1991), and there is no dormant Indian Commerce Clause. It cannot “be seriously argued that the Indian Commerce Clause, *of its own force*, automatically bars all state” regulation of Indian commerce. *Washington v. Confederated Tribes of Colville Indian Reservation*, 447 U.S. 134, 157 (1980) (emphasis added). Because there is no dormant aspect to the Indian Commerce Clause, it does not confer “rights, privileges or immunities” within the meaning of § 1983.

### **ARGUMENT**

“A grant of summary judgment is reviewed *de novo*, and may be affirmed on any ground supported by the record.” *American Civil Liberties Union v. City of Las Vegas*, 333 F.3d 1092, 1096-97 (9th Cir. 2003) (internal citation omitted).

#### **I. RELEVANT HISTORY OF THE LAND SYSTEM OF THE UNITED STATES, SECTION 36, AND THE CHEMEHUEVI RESERVATION.**

##### **A. The 1851 Act to Settle Land Claims in California.**

“The Treaty of Guadalupe Hidalgo, signed on February 2, 1848 and entered into force on May 30, 1848, signaled the formal end of the Mexican-American War.”

*Chunie*, 788 F.2d at 641. “Under the treaty, Mexico ceded California to the United States.” *Id.* On March 3, 1851, shortly after California was admitted into the Union, Congress passed an act to settle land claims in this newly-acquired territory. *Id.* (citing 9 Stat. 631 (1851)). The act created a board of commissioners to determine the validity of claims, and required everyone claiming lands in California to present the claim within two years: “all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered as part of the public domain of the United States.” 9 Stat. at 633.

“In several cases, the Supreme Court has addressed the issue of whether Indians were required to file claims under the Act of 1851.” *Chunie*, 788 F.2d at 645. In two of those cases—*Barker v. Harvey*, 181 U.S. 481 (1901), and *United States v. Title Insurance & Trust Company*, 265 U.S. 472 (1924)—the Court held that Mission Indians “lost any rights they might have had” to land in California “by not presenting claims to the commissioners under the Act of 1851.” *Chunie*, 788 F.2d at 645. “That is to say, the Act of 1851 was interpreted as containing machinery for extinguishment of claims, *including those based on Indian right of occupancy.*” *United States v. Santa Fe Pacific R.R. Co.*, 314 U.S. 339, 350 (1941) (emphasis added). “Since Congress had provided a method for extinguishment, its appropriateness raised only a political, not a justiciable, issue.” *Id.* at 350-51.

“Given the line of Supreme Court decisions recognizing the extensive reach of the Act of 1851,” this Court in *Chunie* “conclude[d] that the district court correctly held that the Chumash, claiming a right of occupancy based on aboriginal title, *lost all rights in the land when they failed to present a claim to the commissioners.*” *Chunie*, 788 F.2d at 646 (emphasis added).

The Chemehuevi Indians likewise did not present any claims to the commissioners under the Act of 1851. Accordingly, in 1853, they “lost any rights they might have had” to land in California, *id.* at 645, “including those based on Indian right of occupancy.” *Santa Fe Pacific R.R. Co.*, 314 U.S. at 350.

**B. The 1853 Act Granting Section 36 to California.**

“The Enabling Act of each of the public-land States admitted into the Union since 1802 has included grants of designated sections of federal lands for the purpose of supporting public schools.” *Andrus*, 446 U.S. at 506. “Between the years 1802 and 1846 the grants were of every section sixteen, and, thereafter, of sections sixteen and thirty-six.” *Id.* at 506-7 n.7. “The lands were not literally meant to be sites for school buildings.” *Lyon*, 626 F.3d at 1066. “Instead, the state was able to sell and lease them to produce funds supporting its schools.” *Id.*

“[T]he school land grant was a ‘solemn agreement’” between the United States and the States, and a State’s title to sections sixteen and thirty-six vested upon “completion of an official survey” of the sections. *Andrus*, 446 U.S. at 507. While

“the Federal Government retained the power to appropriate public lands embraced within school grants for other purposes if it acted in a timely fashion”—i.e., before the school sections were officially surveyed—“the States’ title to unappropriated land in designated sections could not be defeated after survey.” *Id.* at 511.

On March 3, 1853, Congress granted sections sixteen and thirty-six in every township in California to the State of California: “sections sixteen and thirty-six ... shall be and hereby are granted to the State for the purposes of public schools in each township.” 10 Stat. at 246. On July 10, 1895, the Surveyor General’s Office officially approved the survey containing Section 36, (3 ER 545-546), thereby vesting title in California. *Andrus*, 446 U.S. at 507.

**C. The 1891 Mission Indian Relief Act (MIRA).**

“In 1864, Congress empowered the President to set apart land in California ‘to be retained by the United States for the purposes of Indian Reservations.’” *Pechanga Band of Mission Indians*, 680 F.2d at 72 (quoting 13 Stat. 39, 40 (1864)). “In general, reservations created by Executive Order were temporary, and their boundaries changed frequently.” *Id.* at 72-73 n.1 (internal citations omitted). “Because the constantly-changing reservation sites under the 1864 Act proved unsatisfactory, Congress enacted the Mission Indian Relief Act, ch. 65, 26 Stat. 712 (1891),” *id.* at 73, which provides:

That immediately after the passage of this act the Secretary of the Interior shall appoint three disinterested persons as commissioners

to arrange a just and satisfactory settlement of the Mission Indians residing in the State of California, upon ***reservations which shall be secured to them as hereinafter provided.***

That it shall be the duty of said commissioners to select a reservation for each band or village of the Mission Indians residing within said State ... ***which selection shall be valid when approved by the President*** and Secretary of the Interior.

...

That the commissioners, upon the completion of their duties, shall report the result to the Secretary of the Interior, who, if no valid objection exists, ***shall cause a patent to issue for each of the reservations.... Provided,*** That no patent shall embrace any tract or tracts to which existing valid rights have attached in favor of any person under any of the United States laws providing for the disposition of the public domain....

26 Stat. at 712 (emphasis added).

Thus, MIRA “empowered the Secretary of the Interior to oversee the establishment of new, more secure reservations.” *Pechanga Band of Mission Indians*, 680 F.2d at 73. “The first step in the process was for him to appoint commissioners to propose reservations sites.” *Id.* at 74. “Their selection became ‘valid when approved by the President and the Secretary of the Interior.’” *Id.* “The Act instructed the Secretary that ‘if no valid objection exists, (he) shall cause a patent to issue for each of the reservations selected by the commission.’” *Id.* Under MIRA, “the Secretary had to issue a patent to the land in order to include it in the reservation.” *Id.* at 75. “An explicit constraint on this consummating act was that ‘no patent shall embrace any tract or tracts to which existing valid rights have attached

in favor of any person under any of the United States laws providing for the disposition of the public domain.”” *Id.* at 74.

Although the Chemehuevi may not ethnically be Mission Indians, Congress and the Department of the Interior treated the Chemehuevi as Mission Indians for purposes of MIRA, and there is no dispute that MIRA applies to the Tribe. (1 ER 103; *Chemehuevi Tribe*, 2016 U.S. Dist. LEXIS 189513, at \*17 n.9.)

**D. The 1907 Secretarial Order and Amendment to MIRA.**

On February 2, 1907, the Secretary of the Interior directed that land in the Chemehuevi Valley “be withdrawn from all forms of settlement or entry until further notice,” (3 ER 578), including “the E. 1/2 of T. 5.N. R. 24 E,” which contained Section 36 at the very edge of a southern border. (2 ER 148; 3 ER 599.) This direction was based on Kelsey’s mistaken assumption that the townships that he was recommending be set aside “have not been surveyed.” (3 ER 586.)

On March 1, 1907, Congress amended MIRA:

to authorize the Secretary of the Interior to select, set apart, ***and cause to be patented*** to the Mission Indians such tracts of the public lands of the United States, in the State of California, as he shall find upon investigation to have been in the occupation and possession of the several bands or villages of Mission Indians, and are now required and needed by them, and which were not selected for them by the Commission as contemplated by section two of said Act....

34 Stat. 1015, 1022-23 (1907) (emphasis added). As before, “no patent issued under the provisions of this Act shall embrace any tract or tracts to which valid existing

rights have attached in favor of any person under any of the United States laws providing for the disposition of the public domain.” *Id.* at 1023.

The trust patent required by MIRA was not issued until June 28, 2010. (3 ER 480-486.) The patent specifically excludes “[t]hose lands granted to the State of California as school sections on July 10, 1895, located in sec. 36, T. 4 N., R 25 E., and sec. 36, T. 5 N., R. 24 E.” (3 ER 480.)

## **II. THE DISTRICT COURT CORRECTLY HELD THAT SECTION 36 IS NOT “INDIAN COUNTRY” AS DEFINED IN 18 U.S.C. § 1151(a).**

The first three causes of action in Plaintiffs’ FAC all depend on Plaintiffs’ claim that Section 36 is “Indian country” as defined in 18 U.S.C. § 1151(a). (AOB at 28-29.) Section 1151(a) defines “Indian country” as “all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation.” The district court correctly held that “Section 36 is not Indian country as defined by Section 1151(a)” because it “is not part of the Reservation, lies just outside of the Reservation and is not within its boundaries.” (1 ER 29; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*26.)

### **A. After July 10, 1895, the Federal Government Had No Power to Set Aside Section 36 Because Title Had Vested in California.**

California’s title to Section 36 vested on July 10, 1895, when the Surveyor General’s Office approved the survey of Section 36. (3 ER 545-546.) “With this



identification of the section the title of the State ... became complete,” and “[n]o subsequent sale or other disposition ... could defeat the appropriation.” *Beecher*, 95 U.S. at 524-25. Appellants’ opening brief fails to address this issue, which was “[t]he crux” of the district court’s ruling. (1 ER 2.) And they still “offer no authority” that could possibly support the “position that the 1907 Order could withdraw lands from settlement—and include as part of any Indian Reservation—those lands previously conveyed to the State of California.” (1 ER 23; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*18.)

Plaintiffs’ “failure to present a specific, cogent argument for [the Court’s] consideration,” *Greenwood v. FAA*, 28 F.3d 971, 977 (9th Cir. 1994), constitutes a waiver. This Court “review[s] only issues which are argued specifically and distinctly in a party’s opening brief.” *Id.* The Court “will not manufacture arguments for an appellant, and a bare assertion does not preserve a claim, particularly when, as here, a host of other issues are presented for review.” *Id.*

**1. Section 36 Was Excluded From the 1907 Secretarial Order By Operation of Law Under the Appropriation Doctrine.**

Plaintiffs’ refrain that “the boundaries of the Reservation” were “established and fixed” in 1907, (AOB at 12; *see also id.* at 1, 3, 6, 15, 23), is dispositive. Even if the boundaries of the Reservation were established and fixed in 1907—which they were not (*see infra*, Point II.B.)—Section 36 was excluded from those boundaries by operation of law under the appropriation doctrine. After July 10, 1895, no

representative of the federal government—not Congress, not the President, not the Secretary of the Interior, not the Bureau of Indian Affairs (BIA)—had the power to set aside Section 36 or make it part of a reservation because Section 36 had already been “appropriated to the State.” *Beecher*, 95 U.S. at 524.

“The doctrine first announced in *Wilcox v. Jackson*, 13 Pet. 498 [1839], that a tract of land lawfully appropriated to any purpose becomes thereafter severed from the mass of public lands, and that *no subsequent law or proclamation will be construed to embrace it or to operate upon it, although no exception be made of it*, ha[d] been reaffirmed and applied by” the United States Supreme Court “in such a great number and variety of cases that” by 1889 it was already “regarded as one of the fundamental principles underlying the land system of this country.” *Hastings & Dakota R.R. Co.*, 132 U.S. at 360-61 (emphasis added); accord *Missouri, Kansas & Kentucky Ry. Co. v. Roberts*, 152 U.S. 114, 119 (1894) (“a tract lawfully appropriated to any purpose becomes thereafter severed from the mass of public lands, and ... no subsequent law or proclamation will be construed to embrace or operate upon it, although no exception be made of it”).

The 1907 Secretarial Order “must, therefore, be held to apply only to those portions which were outside of sections 16” and 36. *Beecher*, 95 U.S. at 527. “It will not be supposed that Congress intended to authorize a sale [or other disposition] of

land that it had previously disposed of.” *Id.*<sup>4</sup> “The appropriation of the sections to the State ... set them apart from the mass of public property which could be subjected to sale by its direction.” *Id.* Section 36 was “withdrawn from any other disposition, and set apart from the public domain, so that no subsequent law authorizing a sale of it could be construed to embrace [it], *although [it was] not specially excepted.*” *Id.* at 524. In other words, Section 36 “could not be diverted from [its] appropriation to the State.” *Id.* 524; compare *Minnesota v. Hitchcock*, 185 U.S. 373, 398-99 (1902) (“*Before* any survey of the lands, *before* the state right attached to any particular sections, the United States made a treaty or agreement with the Indians, by which they accepted a cession of the entire tract under a trust for its disposition in a particular way.”) (emphasis added).

Accordingly, the district court correctly held that “the Secretary could not include [Section 36] within the Reservation under the 1907 Order” because it had already been conveyed to California. (1 ER 26; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*22-23 n.13.) The district court’s ruling that Section 36 has never been part of the Reservation did not “diminish or alter the boundaries of the Reservation” in violation of 25 U.S.C. § 398d. (AOB at 24.) As the district court

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<sup>4</sup> Indeed, MIRA only “authorize[d] the Secretary of the Interior to select, set apart, and cause to be patented to the Mission Indians ... tracts of *the public lands of the United States*, in the State of California.” 34 Stat. at 1022 (emphasis added). Once title to Section 36 vested in California, Section 36 was “severed from the mass of public lands.” *Roberts*, 152 U.S. at 119.

correctly held, “Plaintiffs’ contention is contingent on a finding that the Secretary could include Section 36 within the boundaries of the Reservation in the first place.” (1 ER 7.) “The Court held the Secretary could not.” (*Id.*) Moreover, as shown below, the boundaries of the Chemehuevi Reservation were not established until 2010 when the trust patent required by MIRA was issued, and those boundaries did not include Section 36. The district court’s decision was entirely consistent with the 2010 patent.

\* \* \* \* \*

The Secretary’s failure to specifically exclude Section 36 when setting aside the “E. 1/2 of T. 5.N. R. 24 E.” was likely due to Kelsey’s erroneous assumption that the lands had “not been surveyed” yet. (3 ER 586.) If indeed the lands had not yet been surveyed, the federal government would have “retained the power to appropriate” them for other purposes. *Andrus*, 446 U.S. at 511-12. But it is undisputed that they had been surveyed. (3 ER 545-546.) In the end, it does not matter that the 1907 Secretarial Order did not specifically exclude Section 36. As a matter of law, after July 10, 1895, Section 36 was “severed from the mass of public lands,” and the 1907 Secretarial Order cannot “be construed to embrace or operate upon it, although no exception [was] made of it.” *Roberts*, 152 U.S. at 119.

**2. As a Matter of Law, the Federal Government's Conveyance of Section 36 to California Was Not Subject to or Prevented By Any Aboriginal Title That the Tribe Might Have Had.**

“Indians’ aboriginal title derives from their presence on the land before the arrival of white settlers.” *Chunie*, 788 F.2d at 641-42. “This right is not an ownership right, but is rather a right of occupancy granted by the conquering sovereign, referred to as ‘original Indian title,’ ‘aboriginal Indian title,’ or simply ‘Indian title.’” *Id.* at 642 (internal citation omitted); *accord Lyon*, 626 F.3d at 1068 (“Aboriginal title is a ‘permissive right of occupancy granted by the federal government to the aboriginal possessors of the land.’ It is mere possession not specifically recognized as ownership....”) (quoting *Gemmill*, 535 F.2d at 1147).

“Aboriginal Indian title differs from recognized Indian title.” *Chunie*, 788 F.2d at 642 n.1. “For Indian title to be recognized, ‘Congress, acting through a treaty or statute, ... must grant legal rights of permanent occupancy within a sufficiently defined territory.... There must be an intention to accord or recognize a *legal* interest in the land.’” *Id.* at 644 (emphasis and alteration in original) (quoting *Sac & Fox Tribe of Indians v. United States*, 315 F.2d 896, 897 (Ct. Cl. 1963)). There is no claim here that the Tribe had recognized Indian title.

Despite any aboriginal Indian title “right of occupancy, the conquering government acquires the exclusive right to extinguish Indian title.” *Chunie*, 788 F.2d at 642; *accord Lyon*, 626 F.3d at 1068 (aboriginal title “may be extinguished by the

federal government at any time”). “Extinguishment of aboriginal title does not create a legal obligation to pay compensation to the Indians.” *Chunie*, 788 F.2d at 642. Congress’s power to extinguish Indian title based on aboriginal possession “is supreme.” *Santa Fe Pacific R.R. Co.*, 314 U.S. at 347. Indeed, “the exclusive right of the United States to extinguish Indian title has never been doubted.” *Id.* “And whether it be done by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise, its justness is not open to inquiry in the courts.” *Id.*

Any aboriginal title that the Tribe might have had to Section 36 was extinguished at least twice before the 1907 Secretarial Order.<sup>5</sup> **First**, just as in *Barker, Title Insurance & Trust Company*, and *Chunie*, the Tribe “lost all rights in [Section 36] when they failed to present claims in the land confirmation proceedings undertaken pursuant to the Treaty of Guadalupe Hidalgo and the Act of 1851.” *Chunie*, 788 F.2d at 644, 645 (rejecting Indian tribe’s argument that “Indians claiming aboriginal rights were not required to file claims under the Act of 1851”); *see supra*, Section I.A.

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<sup>5</sup> Since aboriginal title is only a right of possession, “[t]he possession, when abandoned by the Indians, attaches itself to the fee without further grant.” *Beecher*, 95 U.S. at 526. Accordingly, if in fact the Tribe ever occupied Section 36, any aboriginal title that the Tribe may have had was extinguished when they abandoned possession. Plaintiffs do not dispute that they “fail[ed] to offer any admissible evidence that the Tribe currently occupies or is in possession of ... Section 36.” (1 ER 24; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*19.)

*Second*, vesting of California’s title to Section 36 in 1895 extinguished any aboriginal title that the Tribe might have had. Where, as here, no “pre-existing *treaty* had preserved the aboriginal title” at the time Section 36 was conveyed to California, that “conveyance [itself] extinguished” any aboriginal title to Section 36. *Lyon*, 626 F.3d at 1078-79 (emphasis in original). In *Lyon*, the Gila River Indian Community claimed aboriginal title “based on a theory that the federal government’s transfer of Section 16 to Arizona (and hence to all subsequent owners) was *subject* to the Community’s aboriginal title.” *Id.* at 1068 (emphasis in original). “The district court held that any aboriginal title held by the Community to Section 16 was extinguished in 1877 when the federal government conveyed Section 16 to Arizona.” *Id.* at 1078. “The court concluded that because Section 16 was granted to Arizona ‘for the “support of common schools,”’ it followed ‘that Congress would not intend the land, to be used as a revenue generator, to be burdened with a superior right of use and occupancy such as aboriginal title.’” *Id.* This Court affirmed; the district court “correctly held that *the conveyance extinguished the Community’s aboriginal title to Section 16.*” *Id.* at 1079 (emphasis added).

While the Community cited cases “in which the Supreme Court has held that school land conveyances vest the fee in the state *subject* to any aboriginal title,” this Court held that those “cases are distinguishable because they involved situations where a pre-existing *treaty* had preserved the aboriginal title.” *Id.* (emphasis in

original) (citing *United States v. Thomas*, 151 U.S. 577, 584 (1894); *Wisconsin v. Hitchcock*, 201 U.S. 202, 213-15 (1906); *Beecher*, 95 U.S. at 525). “[T]he rationale in those cases is that the Indian tribe’s right of possession gained by treaty is akin to a contract right negotiated in exchange for some valuable consideration and not subject to unilateral revocation by the federal government.” *Id.* at 1078-79. In *Lyon*, “at the time that Section 16 was conveyed to Arizona, the Community had no such *recognized* right of possession.” *Id.* at 1079 (emphasis in original).

Just as in *Lyon*, no “pre-existing *treaty* had preserved” the Tribe’s aboriginal title at the time Section 36 was conveyed to California, so “the conveyance [itself] extinguished” any aboriginal title to Section 36 that the Tribe might have had. *Lyon*, 626 F.3d at 1078-79 (emphasis in original); *accord Gemmill*, 535 F.2d at 1147-48 (“extinguishment need not be accomplished by treaty or voluntary cession”; “when the Government clearly intends to extinguish Indian title the courts will not inquire into the means or propriety of the action”).

### **3. Plaintiffs’ Arguments About the District Court’s Evidentiary Rulings and the Standards for Granting a Summary Judgment Motion Are Irrelevant and Incorrect.**

“The substantive law determines which facts are material; only disputes over facts that might affect the outcome of the suit under the governing law properly preclude the entry of summary judgment.” *Nat’l Ass’n of Optometrists & Opticians v. Harris*, 682 F.3d 1144, 1147 (9th Cir. 2012). Plaintiffs argue at length about the



district court's exclusion of evidence purportedly "demonstrating that the Chemehuevis occupied Section 36 at the time that Congress enacted the Act of 1853 and at the time that the Secretary issued the 1907 Order." (AOB at 30-43.) Plaintiffs' argument that "the District Court failed to apply the standards for ruling on a motion for summary judgment" also is based solely on purported "evidence that the Chemehuevis occupied Section 36 in 1853 and 1907" that Plaintiffs believe was "sufficient to create a genuine issue for trial." (AOB at 44, 45.)

The only purpose of evidence that the Tribe occupied Section 36 in 1853 and 1907 was to support Plaintiffs' contention that "Section 36 never belonged to California to begin with because the land was subject to the Tribe's aboriginal title." (1 ER 23; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*18.) As shown above, Section II.B.2., any argument that the federal government's conveyance of Section 36 to California was subject to or prevented by the Tribe's aboriginal title fails as a matter of law. It follows that Plaintiffs' arguments about the district court's evidentiary rulings, (AOB at 30-43), and the summary judgment standard, (*id.* at 43-45), are irrelevant. Even if the Tribe occupied Section 36 in 1853 or 1907, that would not have prevented California's title from vesting in 1895, thereby excluding Section 36 from the 1907 Secretarial Order by operation of law. *See supra* Section II.B.1.

Moreover, Plaintiffs do not address the district court's ruling that Kelsey's reports "do not raise a triable issue of fact even if the Court takes them at face value."

(1 ER 4.) “Occupancy necessary to establish aboriginal possession” or “Indian title” is established when “the lands in question were, or were included in, the ancestral home of the [tribe] in the sense that they constituted *definable territory occupied exclusively* by the [tribe] (as distinguished from lands wandered over by many tribes).” *Santa Fe Pacific R.R. Co.*, 314 U.S. at 345 (emphasis added). “Kelsey never made any mention of Section 36 – he only made broad assertions about the Tribe’s occupation of the general area without specificity.” (1 ER 4.) “The Tribe’s presence in the general area does not establish that the Tribe occupied Section 36.” (*Id.*) “Summary judgment is not defeated by evidence that is ‘merely colorable.’” (*Id.* (quoting *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-50 (1986).)

Finally, in addition to being irrelevant, Plaintiffs’ assertion that Defendants “failed to meet [their] initial burden of demonstrating that the Chemehuevis did not occupy Section 36,” (AOB at 45), is incorrect. “Where, as here, the party moving for summary judgment is not the party that bears the burden of proof at trial, it may secure summary judgment by ‘showing—that is, pointing out to the district court—that there is an absence of evidence to support the nonmoving party’s case.’” *Sierra Med. Servs. Alliance v. Kent*, 883 F.3d 1216, 1222 (9th Cir. 2017) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986)).

**4. The District Court Was Not Required to Defer to the BIA.**

Plaintiffs' assertion that "the District Court was required to ... defer to" the BIA's "determination that Section 36 is within the boundaries of the Reservation" under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944), (AOB at 51, 55), is incorrect. Putting aside the fact that most of the materials cited by Plaintiffs have nothing to do with Section 36, the BIA's "rulings, interpretations and opinions" are "*not controlling upon the courts.*" *Skidmore*, 323 U.S. at 140 (emphasis added).

While under some circumstances, "courts and litigants *may* properly resort" to an agency's rulings, interpretations and opinions "for guidance," *id.* (emphasis added), these are not appropriate circumstances to do so. "The weight of such a judgment in a particular case will depend on the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which it power to persuade, if lacking power to control." *Id.* None of the materials cited by Plaintiffs, (AOB at 53), addresses whether the Secretary had the authority to set aside Section 36 in 1907 (he did not) or whether any aboriginal title that the Tribe might have had to Section 36 was extinguished in 1853 and again when it was conveyed to California in 1895 (it was).

**B. The Boundaries of the Reservation Were Not Established Until the Trust Patent Required By MIRA Was Issued in 2010, and That Patent Specifically Excludes Section 36.**

The boundaries of the Reservation were not established until 2010, when the trust patent required by MIRA was issued. (3 ER 480-486.) That trust patent specifically excludes Section 36 from the Reservation. (3 ER 480.)

**1. MIRA Requires Issuance of a Patent to Establish the Boundaries of the Reservation.**

“Section 3 of Article IV of the Constitution confers upon Congress exclusively ‘the power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.’” *Sioux Tribe of Indians v. United States*, 316 U.S. 317, 324 (1942). “Congress not only has a legislative power over the public domain, but it also exercises the powers of the proprietor therein.” *Midwest Oil*, 236 U.S. at 474. “Like any other owner it may provide when, how and to whom its land can be sold” or otherwise disposed of. *Id.* That is exactly what Congress did in MIRA.

Congress enacted MIRA to remedy the problem of “constantly-changing reservation sites” and boundaries. *Pechanga Band of Mission Indians*, 680 F.2d at 73; *see supra*, Section I.C. The goal was to establish “new, more secure reservations” by requiring the Secretary “to issue a patent to the land in order to include it in the reservation.” *Id.* at 73, 75. Under MIRA, “the Secretary had to issue a patent to the land in order to include it in the reservation.” *Id.* at 75.

Just like in *Pechanga Band of Mission Indians*, in this case the Secretary “did not take the final step required under the Act to include the land in the reservation,” *id.* at 74, and the required trust patent was not issued until 2010. The district court correctly held that “Plaintiffs cannot evade [this Court’s] interpretation of MIRA that the Secretary must issue a trust patent to delineate the boundaries of the Reservation.” (1 ER 105; *Chemehuevi Tribe*, 2016 U.S. Dist. LEXIS 189513, at \*21.) As in the district court, “Plaintiffs cite to no authority for the proposition that an Indian reservation’s ‘territorial boundaries’ can be established without also establishing the reservation itself through [the] trust patent” required by MIRA. (1 ER 105; *Chemehuevi Tribe*, 2016 U.S. Dist. LEXIS 189513, at \*19-20.)

## **2. Plaintiffs’ Arguments About the Supreme Court’s Decisions in *Arizona v. California* Are Frivolous.**

Plaintiffs waived the argument that “[t]he doctrines of res judicata and issue preclusion prohibit the County Officials from relitigating” whether Section 36 is within the boundaries of the Reservation, (AOB at 15-19), “by failing to raise it before the district court.” *K.W. ex rel. D.W. v. Armstrong*, 789 F.3d 962, 974 (9th Cir. 2015). While Plaintiffs cited *Arizona v. California*, 373 U.S. 546 (1963), in some of their briefs, they never argued that this decision barred Defendants from “relitigating” any issues. (AOB at 15-19.)

In any event, Plaintiffs’ argument that *Arizona v. California* “confirmed that the Secretary had the authority to create the boundaries of the Reservation and

include all of the lands withdrawn within those boundaries including Section 36,” (AOB at 16), is frivolous. After “disputes about the boundaries” of the Reservation emerged as the result of a 1974 secretarial order, the Court held that “*secretarial orders do not constitute ‘final determinations’*” of reservation boundaries. *Arizona v. California*, 460 U.S. at 630-31, 636-37 n.26 (emphasis added). Even as of 2006, the boundaries of the Reservation had not yet been “finally determined.” *Arizona v. California*, 547 U.S. 150, 167 (2006).

*Arizona v. California* was an “original action brought to determine rights to the waters of the Colorado River.” 460 U.S. at 608. In 1964, the United States “acquired water rights for five Indian reservations that are dependent upon the river for their water.” *Id.* at 607. Two decades later, the United States and the Tribes sought “to have those water rights increased.” *Id.* at 607. In both *Arizona v. California* cases relied upon by Plaintiffs, (AOB at 15-17), the Supreme Court explicitly refused to resolve boundary disputes.

In *Arizona v. California*, 373 U.S. 546 (1963), the Court specifically rejected “the Master’s decision to determine the disputed boundaries” of the Colorado River Indian Reservation and the Fort Mohave Indian Reservation, holding that it was “unnecessary to resolve those disputes here.” *Id.* at 601. The decree that the Court then entered in 1964 “limited the water rights of [those] two reservations to those awarded by the Master, based on the irrigable acreage within the boundaries as he

had found them, but with respect to the boundary disputes, as stipulated by the parties, Article II(D)(5) of the decree provided”:

[The] quantities [of water] fixed in [the paragraphs setting the water rights of the Colorado River and Fort Mojave Reservations] shall be subject to appropriate adjustment by agreement or decree of this Court in the event that the boundaries of the respective reservations are finally determined.

*Arizona*, 460 U.S. at 630 (alterations in original) (quoting *Arizona v. California*, 376 U.S. 340, 345 (1964)).

In 1979, the Court entered a supplemental decree that “not only expressly left unaffected Article II(D)(5) providing for possible adjustments with respect to the Colorado River and Fort Mojave Reservations, but it also left open the issues about the boundaries of other reservations.” *Id.*

[The] quantities [of water] fixed in [the 1964 decree sections setting forth the water rights of each of the five Tribes] shall continue to be subject to appropriate adjustment by agreement or decree of this Court ***in the event that the boundaries of the respective reservations are finally determined.***

*Id.* (alteration in original; emphasis added) (quoting *Arizona v. California*, 439 U.S. 419, 421 (1979)).

In the second case relied upon by Plaintiffs, *Arizona v. California*, 460 U.S. 605 (1983), “disputes about the boundaries of the Colorado River and the Fort Mojave Reservations” were still ongoing. *Id.* at 630. And since the Court’s “original decree was entered in 1964, disputes about the boundaries of the other three

reservations,” including the Chemehuevi Reservation, had emerged. *Id.* at 630-631. The Chemehuevi Reservation boundaries were changed when “[s]ome 2,430 acres were ‘restored’ to this reservation by secretarial order of August 15, 1974.” *Id.* at 633. “This resulted from a secretarial determination that part of the land taken from the reservation for the construction of the Parker Dam was not needed.” *Id.*

The Court held that “the reservation boundaries extended by secretarial order,” were not “‘finally determined’ within the meaning of Article II(D)(5) of [the Court’s] 1964 decree.” *Arizona*, 460 U.S. at 636; *see also id.* at 636-37 n.26 (“the secretarial orders do not constitute ‘final determinations’”). “With respect to these boundary lines,” the Court “sustain[ed] the exceptions and decline[d] to increase the Tribes’ water rights.” *Id.* at 636.

In 1963, when the Court set aside the Special Master’s “boundary determinations as unnecessary and referred to possible future final settlement, [the Court] **in no way intended that *ex parte* secretarial determinations of the boundary issues would constitute ‘final determinations’ that could adversely affect the States**, their agencies, or private water users holding priority rights.” *Id.* (emphasis added). As is apparent from the Supreme Court’s decisions in *Arizona v. California*, setting aside land for a reservation and establishing its boundaries are two entirely different matters.



**III. THE DISTRICT COURT CORRECTLY HELD THAT PLAINTIFFS' RIGHT TO BE FREE OF STATE REGULATION IS NOT WITHIN THE SCOPE OF § 1983.**

Plaintiffs do not challenge the district court's ruling that they "failed to raise a triable issue of material fact as to their section 1983 claim" of "racial discrimination." (1 ER 31, 33; *Chemehuevi Tribe*, 2017 U.S. Dist. LEXIS 143446, at \*29-32.) Instead, Plaintiffs argue that Respondents "deprived [two] Tribal members [Tommie Robert Ochoa and Naomi Lopez] of their federally protected right to be free of state regulation and control," because their Vehicle Code citations were issued on Section 30 (which is part of the Reservation), not Section 36. (AOB at 46, 48-49.) The district court correctly held that "Plaintiffs' right to be free of state regulation ... is not within the scope of section 1983." (1 ER 8.)

As a preliminary matter, "Indian tribes do not have an automatic exemption from state law." *Confederated Tribes of Siletz Indians v. Oregon*, 143 F.3d 481, 486 (9th Cir. 1998). Despite the early view in *Worcester v. Georgia*, 6 Pet. 515 (1832), that "[state laws] can have no force" on an Indian reservation, *Rice v. Rehner*, 463 U.S. 713, 718 (1983) (alteration in original) (quoting *Worcester*, 6 Pet. at 560), "Congress has to a substantial degree opened the doors of reservations to state laws, in marked contrast to what prevailed in the time of Chief Justice Marshall." *Id.* (quoting *Organized Village of Kake v. Egan*, 369 U.S. 60, 74 (1962)); accord *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 141 (1980) ("Long ago the Court departed from Mr. Chief Justice Marshall's view that 'the laws of [a State] can have

no force’ within reservation boundaries.”) (quoting *Worcester*, 6 Pet. at 561). “[Even] on reservations, state laws may be applied unless such application would interfere with reservation self-government or would impair a right granted or reserved by federal law.” *Rice*, 463 U.S. at 718 (alteration in original) (quoting *Mescalero Apache Tribe v. Jones*, 411 U.S. 145, 148 (1973)).

A § 1983 claim must be based on deprivation of “rights, privileges, or immunities secured by the Constitution and laws.” 42 U.S.C. § 1983. In the context of § 1983, “the Constitution and laws” means “federal statutory as well as constitutional law.” *Maine v. Thiboutot*, 448 U.S. 1, 4 (1980). “[F]ederal common law” is not “within the scope of § 1983.” *Hoopa Valley Tribe v. Nevins*, 881 F.2d 657, 663 (9th Cir. 1989).

Plaintiffs claim that their “right to be free of state regulation and control” on the Reservation was “created by the United States Constitution, Article I., § 8, cl. 3”—the Indian Commerce Clause. (AOB at 46.) Plaintiffs do not explain how enforcement of the Vehicle Code interfered with their ability to engage in commerce. In any event, even if the Vehicle Code could somehow be characterized as regulating or burdening Indian commerce, the Indian Commerce Clause does not confer “rights, privileges or immunities” within the meaning of § 1983.

The Commerce Clause of the United States Constitution empowers Congress to regulate commerce in three spheres: “with foreign nations, and among the several

States, and with the Indian Tribes.” U.S. Const. art. I, § 8, cl. 3. As to the first two spheres—commerce with foreign nations and among the several States—the Commerce Clause also provides “a self-executing limitation on the power of the States to enact laws imposing substantial burdens on such commerce.” *Nat’l Ass’n of Optometrists*, 682 F.3d at 1147 (quoting *South-Central Timber Dev., Inc. v. Wunnicke*, 467 U.S. 82, 87 (1984)). This self-executing “limitation on state power has come to be known as the dormant Commerce Clause.” *Id.*

Plaintiffs’ § 1983 argument depends on there being a dormant aspect to the Indian Commerce Clause, as only the dormant aspect of the “Commerce Clause confers ‘rights, privileges, or immunities’ within the meaning of § 1983.” *Dennis*, 498 U.S. at 446. The dormant Commerce Clause is “a substantive ‘restriction on permissible state regulation’ of interstate commerce.” *Id.* at 447 (quoting *Hughes v. Oklahoma*, 441 U.S. 322, 326 (1979)). “In addition, individuals injured by state action that violates this aspect of the Commerce Clause may sue and obtain injunctive and declaratory relief.” *Id.* It is “[t]his combined restriction on state power and entitlement to relief under the Commerce Clause [that] amounts to a ‘right, privilege, or immunity’” for purposes of § 1983. *Id.*

There is no dormant Indian Commerce Clause. The dormant “Commerce Clause *of its own force* imposes limitations on state regulation of commerce and is the source of a right of action in those injured by regulations that exceed such

limitations.” *Id.* at 450 (emphasis added). By contrast, it cannot “be seriously argued that the Indian Commerce Clause, *of its own force*, automatically bars all state” regulation of Indian commerce. *Confederated Tribes of Colville Indian Reservation*, 447 U.S. at 157 (emphasis added).

Indeed, “courts have never inferred that the Indian Commerce Clause contains” a “‘dormant’ protection that prohibits states from discriminating against” Indian commerce. *Otoe-Missouria Tribe of Indians v. New York State Dep’t of Fin. Servs.*, 769 F.3d 105, 117-18 n.9 (2d Cir. 2014) (citing *Ramah Navajo Sch. Bd. v. Bureau of Revenue*, 458 U.S. 832 (1982)); accord *Cotton Petroleum Corp. v. New Mexico*, 490 U.S. 163, 192 (1989) (“It is ... well established that the Interstate Commerce and Indian Commerce Clauses have very different applications.”); *State ex rel. Edmondson v. Native Wholesale Supply*, 237 P.3d 199, 215 (Okla. 2010) (finding “no support” for “a dormant or negative aspect to the Indian Commerce Clause ... in the jurisprudence of the United States Supreme Court”).

Because there is no dormant aspect to the Indian Commerce Clause, it does not confer “rights, privileges or immunities” within the meaning of § 1983. Accordingly, Plaintiffs’ § 1983 claim fails as a matter of law.

**CONCLUSION**

For the foregoing reasons, this Court should affirm the district court.

**STATEMENT OF RELATED CASES**

Appellees are not aware of any related cases pending in this Court.

DATED: June 8, 2018

Respectfully submitted,

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**Form 8. Certificate of Compliance Pursuant to 9th Circuit Rules 28.1-1(f), 29-2(c)(2) and (3), 32-1, 32-2 or 32-4 for Case Number 17-56791**

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Signature of Attorney or  
Unrepresented Litigant

s/ Wendy S. Dowse

Date

June 8, 2018

("s/" plus typed name is acceptable for electronically-filed documents)

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 8, 2018.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: June 8, 2018

Respectfully submitted,

SLOVAK BARON EMPEY MURPHY &  
PINKNEY LLP

By: /s/ Wendy S. Dowse

No. 17-56791

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

---

CHEMEHUEVI INDIAN TRIBE, on its own behalf and on  
behalf of its members parens patrie, CHELSEA LYNN  
BUNIM, TOMMIE ROBERT OCHOA, JASMINE  
SANCOUCIE, NAOMI LOPEZ,

*Plaintiffs-Appellants,*

v.

JOHN McMAHON, in his official capacity as Sheriff of San  
Bernardino County, RONALD SINDELAR, in his official  
capacity as deputy sheriff for San Bernardino County,

*Defendants-Appellees.*

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE  
CENTRAL DISTRICT OF CALIFORNIA, NO. 5:15-cv-01538-DMG-FFM

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**ADDENDUM TO ANSWERING BRIEF OF DEFENDANTS-APPELLEES  
JOHN McMAHON AND RONALD SINDELAR**

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**USCS Const. Art. I, § 8, Cl 3**

Current through PL 115-140, approved 3/20/18

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**Sec. 8, Cl 3. Power of Congress to regulate commerce.**

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***United States Code Service - Constitution of the United States > CONSTITUTION OF THE UNITED STATES OF AMERICA > ARTICLE IV. RELATIONS BETWEEN STATES***

**Sec. 3, Cl 2. Territory or property of United States.**

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

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## THIRTY-FIRST CONGRESS. SESS. II. CH. 40, 41. 1851.

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each year shall hereafter commence on the third Tuesday of April in each year, and all provisions of law now applicable to the holding of said May term shall apply to the said April term.

APPROVED, March 3, 1851.

CHAP. XL. — *An Act to change the Terms of the Circuit Courts for the Eastern and Western Districts of Pennsylvania.* (a) March 3, 1851.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the terms of the Circuit Courts of the United States for the eastern and western districts of Pennsylvania shall hereafter commence as follows, to wit: The April and October terms of the eastern district shall commence on the first Mondays of April and October, and the May and November terms of the western district shall commence on the second Mondays of May and November.

Terms of Circuit Courts in Pennsylvania.

APPROVED, March 3, 1851.

CHAP. XLI. — *An Act to ascertain and settle the private Land Claims in the State of California.* March 3, 1851.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That for the purpose of ascertaining and settling private land claims in the State of California, a commission shall be, and is hereby, constituted, which shall consist of three commissioners, to be appointed by the President of the United States, by and with the advice and consent of the Senate, which commission shall continue for three years from the date of this act, unless sooner discontinued by the President of the United States.

Commission constituted.

SEC. 2. *And be it further enacted,* That a secretary, skilled in the Spanish and English languages, shall be appointed by the said commissioners, whose duty it shall be to act as interpreter, and to keep a record of the proceedings of the board in a bound book, to be filed in the office of the Secretary of the Interior on the termination of the commission.

Secretary.

Duties.

SEC. 3. *And be it further enacted,* That such clerks, not to exceed five in number, as may be necessary, shall be appointed by the said commissioners.

Clerks.

SEC. 4. *And be it further enacted,* That it shall be lawful for the President of the United States to appoint an agent learned in the law, and skilled in the Spanish and English languages, whose special duty it shall be to superintend the interests of the United States in the premises, to continue him in such agency as long as the public interest may, in the judgment of the President, require his continuance, and to allow him such compensation as the President shall deem reasonable. It shall be the duty of the said agent to attend the meetings of the board, to collect testimony in behalf of the United States, and to attend on all occasions when the claimant, in any case before the board, shall take depositions; and no deposition taken by or in behalf of any such claimant shall be read in evidence in any case, whether before the commissioners, or before the District or Supreme Court of the United States, unless notice of the time and place of taking the same shall have been given in writing to said agent, or to the district attorney of the proper district, so long before the time of taking the deposition as to enable him to be present at the time and place of taking the same,

Agent for United States.

Duties.

Ante, p. 616.

Compensation. Duties.

Notice of taking of depositions to be given to such agent.

(a) See vol. i. pp. 75, 463, 517; vol. ii. pp. 1, 157; vol. iii. p. 462; vol. v. pp. 177, 628.



- and like notice shall be given of the time and place of taking any deposition on the part of the United States.
- Sessions of commissioners.** SEC. 5. *And be it further enacted,* That the said commissioners shall hold their sessions at such times and places as the President of the United States shall direct, of which they shall give due and public notice; and the marshal of the district in which the board is sitting shall appoint a deputy, whose duty it shall be to attend upon the said board, and who shall receive the same compensation as is allowed to the marshal for his attendance upon the District Court.
- Deputy marshal.**
- Pay.**
- Oaths to be administered, and testimony taken in writing and recorded.** SEC. 6. *And be it further enacted,* That the said commissioners, when sitting as a board, and each commissioner at his chambers, shall be, and are, and is hereby, authorized to administer oaths, and to examine witnesses in any case pending before the commissioners, that all such testimony shall be taken in writing, and shall be recorded and preserved in bound books to be provided for that purpose.
- Subpœnas.** SEC. 7. *And be it further enacted,* That the secretary of the board shall be, and he is hereby, authorized and required, on the application of the law agent or district attorney of the United States, or of any claimant or his counsel, to issue writs of subpœna commanding the attendance of a witness or witnesses before the said board or any commissioner.
- Claimants of land to present their claims.** SEC. 8. *And be it further enacted,* That each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican government, shall present the same to the said commissioners when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence, and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and, within thirty days after such decision is rendered, to certify the same, with the reasons on which it is founded, to the district attorney of the United States in and for the district in which such decision shall be rendered.
- Proceedings thereon.**
- Petitions to District Court. Proceedings therein.** SEC. 9. *And be it further enacted,* That in all cases of the rejection or confirmation of any claim by the board of commissioners, it shall and may be lawful for the claimant or the district attorney, in behalf of the United States, to present a petition to the District Court of the district in which the land claimed is situated, praying the said court to review the decision of the said commissioners, and to decide on the validity of such claim; and such petition, if presented by the claimant, shall set forth fully the nature of the claim and the names of the original and present claimants, and shall contain a deraignment of the claimant's title, together with a transcript of the report of the board of commissioners, and of the documentary evidence and testimony of the witnesses on which it was founded; and such petition, if presented by the district attorney in behalf of the United States, shall be accompanied by a transcript of the report of the board of commissioners, and of the papers and evidence on which it was founded, and shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, a copy of which petition, if the same shall be presented by a claimant, shall be served on the district attorney of the United States, and, if presented in behalf of the United States, shall be served on the claimant or his attorney; and the party upon whom such service shall be made shall be bound to answer the same within a time to be prescribed by the judge of the District Court; and the answer of the claimant to such petition shall set forth fully the nature of the claim, and the names of the original and present claimants, and shall contain a deraignment of the claimant's title; and the answer of the
- Form of petition.**
- Answers to petitions.**



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district attorney in behalf of the United States shall fully and distinctly set forth the grounds on which the said claim is alleged to be invalid, copies of which answers shall be served upon the adverse party thirty days before the meeting of the court, and thereupon, at the first term of the court thereafter, the said case shall stand for trial, unless, on cause shown, the same shall be continued by the court.

SEC. 10. *And be it further enacted*, That the District Court shall proceed to render judgment upon the pleadings and evidence in the case, and upon such further evidence as may be taken by order of the said court, and shall, on application of the party against whom judgment is rendered, grant an appeal to the Supreme Court of the United States, on such security for costs in the District and Supreme Court, in case the judgment of the District Court shall be affirmed, as the said court shall prescribe; and if the court shall be satisfied that the party desiring to appeal is unable to give such security, the appeal may be allowed without security.

Proceedings thereon.

Appeal to Supreme Court.

Security for costs.

SEC. 11. *And be it further enacted*, That the commissioners herein provided for, and the District and Supreme Courts, in deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the law of nations, the laws, usages, and customs of the government from which the claim is derived, the principles of equity, and the decisions of the Supreme Court of the United States, so far as they are applicable.

On what principles commissioners are to act.

SEC. 12. *And be it further enacted*, That to entitle either party to a review of the proceedings and decision of the commissioners hereinbefore provided for, notice of the intention of such party to file a petition to the District Court shall be entered on the journal or record of proceedings of the commissioners within sixty days after their decision on the claim has been made and notified to the parties, and such petition shall be filed in the District Court within six months after such decision has been rendered.

Proceedings to authorize petition to District Court.

SEC. 13. *And be it further enacted*, That all lands, the claims to which have been finally rejected by the commissioners in manner herein provided, or which shall be finally decided to be invalid by the District or Supreme Court, and all lands the claims to which shall not have been presented to the said commissioners within two years after the date of this act, shall be deemed, held, and considered as part of the public domain of the United States; and for all claims finally confirmed by the said commissioners, or by the said District or Supreme Court, a patent shall issue to the claimant upon his presenting to the general land office an authentic certificate of such confirmation, and a plat or survey of the said land, duly certified and approved by the surveyor-general of California, whose duty it shall be to cause all private claims which shall be finally confirmed to be accurately surveyed, and to furnish plats of the same; and in the location of the said claims, the said surveyor-general shall have the same power and authority as are conferred on the register of the land office and receiver of the public moneys of Louisiana, by the sixth section of the act "to create the office of surveyor of the public lands for the State of Louisiana," approved third March, one thousand eight hundred and thirty-one: *Provided, always*, That if the title of the claimant to such lands shall be contested by any other person, it shall and may be lawful for such person to present a petition to the district judge of the United States for the district in which the lands are situated, plainly and distinctly setting forth his title thereto, and praying the said judge to hear and determine the same, a copy of which petition shall be served upon the adverse party thirty days before the time appointed for hearing the same. *And provided, further*, That it shall and may be lawful for the district judge of the United States, upon the hearing of such petition,

All lands in California to which claims are not established to be taken as public lands.

Patent to issue for lands, claims to which are confirmed.

Location and survey of claims.

1831, ch. 116.  
Provision where a claim is contested by some other person.

Injunction in such case.



to grant an injunction to restrain the party at whose instance the claim to the said lands has been confirmed, from suing out a patent for the same, until the title thereto shall have been finally decided, a copy of which order shall be transmitted to the commissioner of the general land office, and thereupon no patent shall issue until such decision shall be made, or until sufficient time shall, in the opinion of the said judge, have been allowed for obtaining the same; and thereafter the said injunction shall be dissolved.

This act not to extend to certain lots.

Provision for the case of such lots.

Proceedings to be conclusive only as between U. S. and the claimants.

Report on tenure of mission lands and those held by certain Indians.

Compensation. Commissioners.

Secretary. Clerks. Vol. ix. p. 94. Vol. x. p. 208.

Secretary to receive no fees except in certain cases.

SEC. 14. *And be it further enacted*, That the provisions of this act shall not extend to any town lot, farm lot, or pasture lot, held under a grant from any corporation or town to which lands may have been granted for the establishment of a town by the Spanish or Mexican government, or the lawful authorities thereof, nor to any city, or town, or village lot, which city, town, or village existed on the seventh day of July, eighteen hundred and forty-six; but the claim for the same shall be presented by the corporate authorities of the said town, or where the land on which the said city, town, or village was originally granted to an individual, the claim shall be presented by or in the name of such individual, and the fact of the existence of the said city, town, or village on the said seventh July, eighteen hundred and forty-six, being duly proved, shall be prima facie evidence of a grant to such corporation, or to the individual under whom the said lot-holders claim; and where any city, town, or village shall be in existence at the time of passing this act, the claim for the land embraced within the limits of the same may be made by the corporate authority of the said city, town, or village.

SEC. 15. *And be it further enacted*, That the final decrees rendered by the said commissioners, or by the District or Supreme Court of the United States, or any patent to be issued under this act, shall be conclusive between the United States and the said claimants only, and shall not affect the interests of third persons.

SEC. 16. *And be it further enacted*, That it shall be the duty of the commissioners herein provided for to ascertain and report to the Secretary of the Interior the tenure by which the mission lands are held, and those held by civilized Indians, and those who are engaged in agriculture or labor of any kind, and also those which are occupied and cultivated by Pueblos or Rancheros Indians.

SEC. 17. *And be it further enacted*, That each commissioner appointed under this act shall be allowed and paid at the rate of six thousand dollars per annum; that the secretary of the commissioners shall be allowed and paid at the rate of four thousand dollars per annum; and the clerks herein provided for shall be allowed and paid at the rate of one thousand five hundred dollars per annum; the aforesaid salaries to commence from the day of the notification by the commissioners of the first meeting of the board.

SEC. 18. *And be it further enacted*, That the secretary of the board shall receive no fee except for furnishing certified copies of any paper or record, and for issuing writs of subpœna. For furnishing certified copies of any paper or record, he shall receive twenty cents for every hundred words, and for issuing writs of subpœna, fifty cents for each witness; which fees shall be equally divided between the said secretary and the assistant clerk.

APPROVED, March 3, 1851.



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Proviso.

sum to be applied to the completion of the Capitol at Saint Paul, and the remainder, to the completion of the prison buildings at Stillwater, in said Territory, to be expended under the direction of the Legislative authority thereof: *Provided*, That nothing herein contained shall be construed to authorize any farther expenditure by said Territorial authority for the purposes aforesaid than is provided for in this act.

APPROVED, March 8, 1853.

March 8, 1853. CHAP. CXLIII.—*An Act to extend Preemption Rights to certain Lands therein mentioned.*

Preemption laws extended to sections reserved or to be reserved on lines of railways.

Provisos.

Price.

Limit to 160 acres.

Preemption on French or Spanish claims declared invalid.

1841, ch. 16.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the preemption laws of the United States, as they now exist, be and they are hereby extended over the alternate reserved sections of public lands along the lines of all the railroads in the United States wherever public lands have been or may be granted by acts of Congress; and that it shall be the privilege of the persons residing on any of said reserved lands to pay for the same in soldiers' bounty land warrants, estimated at a dollar and twenty-five cents per acre, or in gold and silver, or both together, in preference to any other person, and at any time before the same shall be offered for sale at auction: *Provided*, That no person shall be entitled to the benefit of this act who has not settled and improved, or shall not settle and improve, such lands prior to the final allotment of the alternate sections to such railroads by the General Land Office: *And provided further*, That the price to be paid shall in all cases be two dollars and fifty cents per acre, or such other minimum price as is now fixed by law, or may be fixed upon lands hereafter granted; and no one person shall have the right of preemption to more than one hundred and sixty acres: *And provided further*, That any settler who has settled or may hereafter settle on lands heretofore reserved on account of claims under French, Spanish, or other grants which have been or shall be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of preemption granted by this act and the act of fourth of September, eighteen hundred and forty-one, entitled "An act to appropriate the proceeds of the public lands and to grant preemption rights," after the lands shall have been released from reservation, in the same manner as if no reservation existed.

APPROVED, March 8, 1853.

March 8, 1853.

CHAP. CXLIV.—*An Act authorizing Changes in the Location of Land Offices.*

Location of land offices may be changed.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President be and he is hereby authorized to change the location of the land offices in the several land districts established by law, and to establish the same from time to time at such point in the district as he may deem expedient.

APPROVED, March 8, 1853.

March 8, 1853.

CHAP. CXLV.—*An Act to provide for the Survey of the Public Lands in California, the granting of Preemption Rights therein, and for other purposes.*

Place of office of Surveyor-General for California.

Oath of office.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Surveyor-General for the District or State of California, who is now or may hereafter be appointed by the President, by and with the advice and consent of the Senate, shall keep his office at such place as the President, in view of the public convenience, shall from time to time direct; and the Surveyor-General, if he has not already done so, and his successors in office, before entering upon duty, shall take and subscribe an oath or affirmation, be-



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fore a judge of a United States Court, or other competent officer, to support the Constitution of the United States, and faithfully discharge the duties of his office, and give bond in the same amount as other Surveyors-General, the penalty thereof to be increased whenever the Secretary of the Interior shall deem proper. He shall be entitled to receive a salary at the rate of four thousand five hundred dollars per annum, payable quarter-yearly, to commence from the time of entering into bond.

Bond.

Salary.

SEC. 2. *And be it further enacted*, That there shall be allowed for clerk hire in the office of the Surveyor-General the sum of eleven thousand dollars per annum, or so much thereof as may be necessary: *Provided*, That the salary of no clerk shall exceed the sum of twenty-five hundred dollars per annum; and for office rent, fuel, and other incidental expenses of his office, such sums as shall be found necessary by the Secretary of the Interior, not exceeding the sum of ten thousand dollars. And the Secretary of the Interior is hereby authorized to cause an official seal to be prepared for the office of the said Surveyor-General; and any copy of or extracts from the plats, field notes, and other records and documents on file in his office, when attested as such, by the said seal, and the signature of the Surveyor-General, shall, in all judicial matters, have the same force and effect as the originals.

His clerks.

Proviso.

His official seal.

His attested copies made evidence.

SEC. 3. *And be it further enacted*, That the said Surveyor-General shall have the same power and authority, and perform the same duties respecting the public lands and private claims in the State of California, as by law appertain to and are required of the Surveyor-General in Louisiana, except so far as the same may be modified by this act. He shall engage a sufficient number of skilful surveyors as his deputies, whom he shall cause to survey, measure, and mark base and meridian lines through such points, and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed, and also to survey and establish the other lines of the public lands. He shall also cause all private claims to be surveyed after they have been confirmed, so far as may be necessary to complete the surveys of the public lands; and in the location and survey of them he shall have the same power and authority as are conferred on the land officers of Louisiana by the sixth section of the act of third March, eighteen hundred and thirty-one, creating the office of the Surveyor-General for that State; and for surveying the base and meridian lines, and private claims, and meandering navigable waters, the deputy surveyor shall be allowed not exceeding sixteen dollars per mile; and for surveying the other lines of the public lands there shall be paid not exceeding an average of twelve dollars per mile: *Provided*, That none other than township lines shall be surveyed when the lands are mineral or are deemed unfit for cultivation; and no allowance shall be made for such lines as are not actually run and marked in the field, and were actually necessary to be run.

His power and duties.

Deputies.

1831, ch. 113.

Pay per mile of survey.

Proviso.

SEC. 4. *And be it further enacted*, That if, in the opinion of the Secretary of the Interior it shall be advisable, he is hereby authorized to direct such surveys after what is known as the geodetic method. And whenever, in the opinion of the Secretary of the Interior, a departure from the rectangular mode of surveying and subdividing the public lands would promote the public interests, he may direct such change to be made in the mode of surveying and designating the said lands as he may deem proper, with reference to the existence of mountains, mineral deposits, and the advantages derived from timber and water privileges: *Provided*, That such lands shall not be surveyed into less than one hundred and sixty acres, or subdivided into less than forty acres.

Geodetic method may be adopted.

Rectangular mode of survey may be departed from.

Proviso.

SEC. 5. *And be it further enacted*, That there shall be appointed by the President, by and with the advice and consent of the Senate, a register of the land office and receiver of public moneys for the State of California, at such time as, in his judgment, the public interest may

Register and receiver for California to be appointed.



demand, with a salary each of three thousand dollars per annum, payable quarter-yearly; and the land office shall be located at such place as the President, in view of the public convenience, shall from time to time direct; and, previously to entering on the duties of their offices, they each shall take and subscribe an oath or affirmation, before one of the Judges of the United States Courts, or other competent officer, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices, and shall give bond in the same amount as other registers and receivers of the public land offices; and their general duties and responsibilities shall be the same as other officers of like character:

*Location of land office.* *Provided, however,* That at such time or times as in his judgment the public interest may so imperatively require, and in the absence of any further and special legislation of Congress on the subject, it shall be lawful for the President of the United States to divide the State of California into two or three separate and distinct land districts, as circumstances shall determine to be necessary, embracing respectively the upper and lower, or the upper, middle, and lower portions of the State; and he shall appoint, by and with the advice and consent of the Senate, or during the recess of Congress when necessary, a register of the land office and receiver of public moneys for each of such land districts; and the land offices for the same respectively shall be located at, and be removed from time to time to such places as the President shall deem most suitable for public convenience.

*California may be divided into land districts and officers be appointed.* SEC. 6. *And be it further enacted,* That all the public lands in the State of California, whether surveyed or unsurveyed, with the exception of sections sixteen and thirty-six, which shall be and hereby are granted to the State for the purposes of public schools in each township, and with the exception of lands appropriated under the authority of this act, or reserved by competent authority, and excepting also the lands claimed under any foreign grant or title and the mineral lands, shall be subject to the preëmption laws of fourth September, eighteen hundred and forty-one, with all the exceptions, conditions, and limitations therein, except as is herein otherwise provided; and shall, after the plats thereof are returned to the office of the register, be offered for sale, after six months' public notice in the State of the time and place of sale, under the laws, rules, and regulations now governing such sales, or such as may be hereafter prescribed: *Provided,* That where unsurveyed lands are claimed by preëmption, the usual notice of such claim shall be filed within three months after the return of the plats of surveys to the land offices, and proof and payment shall be made prior to the day appointed by the President's proclamation for the commencement of the sale, including such lands; the entry of such claims to be made by legal subdivisions, according to the United States' survey, and in the most compact form:

*Public lands in California, except school and mineral lands claimed, &c., to be subject to pre-emption under act of 1841, ch. 16.* *And provided further,* That the fact of persons having heretofore had the benefit of said act of the fourth of September, eighteen hundred and forty-one, shall interpose no bar to their obtaining the benefits of this act; and all of said lands that shall remain unsold after having been proclaimed and offered, shall be subject to entry at private sale as other public land, at the same minimum price per acre; and the register and receiver shall not be entitled to any per centage or fees, except for deciding preëmption cases, when each of them shall be allowed the same fees as are paid to other like officers; but the receiver shall be entitled to his actual necessary expenses, going and returning, in making his deposits:

*Sale thereof.* *Provided,* That nothing in this act shall be construed to authorize any settlement to be made on any public lands not surveyed, unless the same be made within one year from the passage of this act; nor shall any right of such settlers be recognized by virtue of any settlement or improvement made of such unsurveyed lands subsequent to that day: *And provided further,* That this act shall not be construed to authorize any

*Notice of claim of pre-emption.*

*Who may be pre-emptors.*

*Private entry.*

*Proviso.* 1854, ch. 17.



settlement to be made on any tract of land in the occupation or possession of any Indian tribe, or to grant any preëmption right to the same.

SEC. 7. *And be it further enacted*, That where any settlement, by the erection of a dwelling-house or the cultivation of any portion of the land, shall be made upon the sixteenth and thirty-sixth sections, before the same shall be surveyed, or where such sections may be reserved for public uses or taken by private claims, other land shall be selected by the proper authorities of the State in lieu thereof, agreeably to the provisions of the act of Congress approved on the twentieth of May, eighteen hundred and twenty-six, entitled "An act to appropriate lands for the support of schools in certain townships and fractional townships, not before provided for," and which shall be subject to approval by the Secretary of the Interior. And no person shall make a settlement or location upon any tract or parcel of land selected for a military post, or within one mile of such post, or on any other lands reserved by competent authority; nor shall any person obtain the benefits of this act by a settlement or location on mineral lands.

Location of other school lands in lieu of sections 16 and 36.

1826, ch. 83.

Settlements within one mile of military posts forbidden.

SEC. 8. *And be it further enacted*, That the public lands, not being mineral lands, occupied as towns or villages, shall not be subdivided, or subject to sale, or to be appropriated by settlers, under the provisions of this act; but the whole of such lands, whether settled upon before or after the survey of the same, shall be subject to the provisions of the act entitled "An act for the relief of the citizens of towns upon the lands of the United States, under certain circumstances," approved May twenty-third, eighteen hundred and forty-four, except such towns as are located on or near mineral lands, the inhabitants of which shall have the right of occupation and cultivation only until such time as Congress shall dispose of the same; nor shall any lands specially reserved for public uses be appropriated under the provisions of this act.

Town or village lots.

1844, ch. 17.

SEC. 9. *And be it further enacted*, That whenever the public surveys, or any portion of them authorized by this act, or by the act approved 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," are so required to be made, as to render it expedient to make compensation for the surveying thereof by the day, instead of by the mile, it shall be lawful for the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, to make such fair and reasonable allowance as, in his judgment, shall be necessary to insure the accurate and faithful execution of the work.

Compensation for surveying by the day.  
1850, ch. 76.

SEC. 10. *And be it further enacted*, That, except where the President of the United States shall see cause otherwise to determine, each officer to be appointed in virtue of this act, and also every other like officer of the United States, may continue in the uninterrupted discharge of his regular official duties, and is hereby authorized accordingly so to act, after the day of expiration of his official commission, and until a new commission shall be issued to him for the same office, or otherwise, until the day when a successor shall enter upon the duties of such office; and the existing official bond of any such officer so acting shall be deemed and held to be good and sufficient, and in force until the date of the approval of a new bond to be given by him if recommissioned, or otherwise, for the additional time wherein he may so continue officially to act, pursuant to authority hereof. And the provision as to bonds to be given by Deputy-Surveyors for the faithful execution of their duties, in a penalty of double the estimated amount of money accruing to them under their surveying contracts, as required by the act of March third, eighteen hundred and thirty one, entitled "An act to create the office of Surveyor-General of the public lands for the State of Louisiana," referred to in the third section of this act, shall be and the same is hereby made

Officers, how long to hold office.

Deputy-Surveyors' bonds.

1831, ch. 116.



applicable to the public surveys in the State of California; and the sufficiency of the sureties to all such bonds shall be approved and certified by the proper Surveyor-General; and the same provision is hereby extended to all other branches of the public surveying service elsewhere; and all such bonds heretofore required of Deputy-Surveyors, according to usage in the surveying service, shall be deemed and held to be of the same validity as if the same had been required by law. And it is hereby made the duty of each of the respective Surveyors-General of the public lands of the United States, so far as is compatible with the desk duties of his office, occasionally to inspect the surveying operations while in progress in the field, sufficiently to satisfy himself, from actual inspection, of the fidelity of the execution of the work according to contract, and the actual and necessary expenses incurred by him while so engaged shall be allowed; and where it is incompatible with his other duties for a Surveyor-General to devote the time necessary to make a personal inspection of the work in progress, then he shall be and hereby is authorized to depute a confidential agent to make such examination; and the actual and necessary expenses of such person shall be allowed and paid for that service, and five dollars per day during the examination in the field: *Provided*, That such examination shall not be protracted beyond thirty days, and in no case longer than is actually necessary; and when a Surveyor-General, or any person employed in his office at a regular salary, shall be engaged in such special service, he or they shall only receive his necessary expenses in addition to his regular salary.

**Surveyor-General to inspect surveying operations.** SEC. 11. *And be it further enacted*, That the Secretary of the Interior be and he is hereby authorized and required to cause to be provided for the office of the Surveyor-General of Oregon, a seal, with such device as shall be deemed suitable, and copies of any papers on file in his office which may be authenticated by him under said seal shall be evidence in all cases in which the originals would be evidence, and from and after the passage of this act the salary of said Surveyor shall be three thousand five hundred dollars per annum.

**May appoint a confidential agent.** His attested copies shall be evidence.

**Proviso.** His salary.

**Surveyor-General of Oregon to have a seal.** SEC. 12. *And be it further enacted*, That the quantity of two entire townships, or seventy-two sections, shall be and the same is hereby granted to the State of California for the use of a seminary of learning, said lands to be selected by the Governor of the State, or any person he may designate for that purpose, in legal subdivisions of not less than a quarter-section of any of the unsold, unoccupied, and unappropriated public lands therein, subject to the approval of the Secretary of the Interior, and to be disposed of as the Legislature shall direct: *Provided, however*, That no mineral lands, or lands reserved for any public purpose whatever, or lands to which any settler may be entitled under the provisions of this act, shall be subject to such selection.

**Grant to California for a University.** SEC. 13. *And be it further enacted*, That there shall be and is hereby granted to the State of California the quantity of ten entire sections of land, for the purpose of erecting the public buildings of that State, said lands to be selected by the Governor, or any persons he may designate, in legal subdivisions of not less than a quarter-section of any of the unsold, unoccupied, and unappropriated public lands in that State, and subject to the approval of the Secretary of the Interior: *Provided, however*, That none of said selections shall be made of mineral lands or lands reserved for any public purpose whatever, or lands to which any settler may be entitled under the provisions of this act.

**Grant to California for public buildings.** *APPROVED, March 3, 1853.*

**Proviso.**



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SEC. 2. *And be it further enacted*, That the thirty-fifth section of the act entitled "An act for enrolling and calling out the national forces, and for other purposes," approved March three, eighteen hundred and sixty-three, shall not be deemed hereafter to prohibit the payment to enlisted men employed at the military academy of the extra-duty pay heretofore allowed by law to enlisted men when employed at constant labor for not less than ten days continuously.

Construction of act of 1863, ch. 78, § 35. Vol. xli. p. 738.

SEC. 3. *And be it further enacted*, That from and after the first day of July, eighteen hundred and sixty-three, the annual pay of cadets at the military academy at West Point shall be the same as that allowed to midshipmen at the naval academy, and the amount necessary for that purpose is hereby appropriated.

Pay of cadets, and appropriation.

SEC. 4. *And be it further enacted*, That cadets found deficient at any examination shall not be continued at the military academy, or be re-appointed except upon the recommendation of the academic board.

Cadets found deficient at examination. [Repealed. Post, p. 467.]

SEC. 5. *And be it further enacted*, That no part of the money hereby appropriated shall be applied to the support or pay of any cadets hereafter appointed not in conformity with the express provisions of law regulating appointments of cadets at that academy.

Appropriation to apply only to cadets regularly appointed.

APPROVED, April 1, 1864.

CHAP. XLVI. — *An Act to increase the Pension of the Revolutionary Pensioners now on the Rolls of the Pension Office.*

April 1, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there shall be paid, out of any money in the treasury not otherwise appropriated, the sum of one hundred dollars per annum to each of the surviving soldiers of the Revolution, now on the pension rolls, during their natural lives, in addition to the pensions to which they are now entitled under former acts of Congress; said payment to date from, and commence on, the first day of January, eighteen hundred and sixty-four, and to cease at their death.

Pension to surviving soldiers of the Revolution.

APPROVED, April 1, 1864.

CHAP. XLVII. — *An Act relating to Acting Assistant Paymasters in the Navy, and regulating the Appointment of Cadets in the Naval Academy.*

April 1, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the President of the United States shall nominate any acting assistant paymaster in the volunteer naval service, on account of his faithful, diligent, and efficient discharge of duty in the volunteer service, to be an assistant paymaster in the navy, it shall be no objection to his appointment and confirmation that he is over twenty-six years of age: *Provided*, That he be not over thirty years of age: *And provided, further*, That the number of paymasters and assistant paymasters, as authorized by law, be not increased thereby.

Appointment of acting assistant paymasters in the navy.

Age.  
Number.

SEC. 2. *And be it further enacted*, That the students of the naval academy, when examined for admission thereto, shall be between the ages of fourteen and eighteen years.

Age of students at naval academy.

APPROVED, April 1, 1864.

CHAP. XLVIII. — *An Act to provide for the better Organization of Indian Affairs in California.*

April 3, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That, from and after the first day of April, anno Domini eighteen hundred and sixty-four, the state of California shall, for Indian purposes, constitute one superintendency, for which there shall be appointed by the President of the United States, by and with the advice and consent of the Senate, a superintendent of Indian

1865, ch. 192. Post, p. 539.  
California to constitute one Indian superintendency.



Superintendent, salary, bond, oath of office.

affairs for said superintendency, at a salary of three thousand six hundred dollars per annum, who shall reside at a point within said state, to be selected by the Secretary of the Interior, and who, upon executing a bond, upon such terms and such sum as may be prescribed by the Secretary of the Interior, and taking the usual oath of office, shall have under his control and management, in like manner and subject to like rules and regulations as are prescribed for superintendents of other superintendencies, the Indians and Indian reservations that are or may hereafter be established in said state: *Provided*, That the superintendent shall be authorized to appoint a clerk, at a compensation not to exceed eighteen hundred dollars per annum.

Clerk, salary.

Indian reservations in California.

SEC. 2. *And be it further enacted*, That there shall be set apart by the President, and at his discretion, not exceeding four tracts of land, within the limits of said state, to be retained by the United States for the purposes of Indian reservations, which shall be of suitable extent for the accommodation of the Indians of said state, and shall be located as remote from white settlements as may be found practicable, having due regard to their adaptation to the purposes for which they are intended: *Provided*, That at least one of said tracts shall be located in what has heretofore been known as the northern district: *And provided, further*, That if it shall be found impracticable to establish the reservations herein contemplated without embracing improvements made within their limits by white persons lawfully there, the Secretary of the Interior is hereby authorized and empowered to contract for the purchase of such improvements, at a price not exceeding a fair valuation thereof, to be made under his direction. But no such contract shall be valid, nor any money paid thereon, until, upon a report of said contract and of said valuation to Congress, the same shall be approved and the money appropriated by law for that purpose: *And provided, further*, That said tracts to be set apart as aforesaid may, or may not, as in the discretion of the President may be deemed for the best interests of the Indians to be provided for, include any of the Indian reservations heretofore set apart in said state, and that in case any such reservation is so included, the same may be enlarged to such an extent as in the opinion of the President may be necessary, in order to its complete adaptation to the purposes for which it is intended.

Location.

Proviso.

Improvements in such locations to be purchased, after report to Congress.

Tracts may or may not include present reservations.

Reservations not retained to be surveyed and offered for sale.

SEC. 3. *And be it further enacted*, That the several Indian reservations in California which shall not be retained for the purposes of Indian reservations under the provisions of the preceding section of this act, shall, by the commissioner of the general land-office, under the direction of the Secretary of the Interior, be surveyed into lots or parcels of suitable size, and as far as practicable in conformity to the surveys of the public lands, which said lots shall, under his direction, be appraised by disinterested persons at their cash value, and shall thereupon, after due advertisement, as now provided by law in case of other public lands, be offered for sale at public outcry, and thence afterward shall be held subject to sale at private entry, according to such regulations as the Secretary of the Interior may prescribe: *Provided*, That no lot shall be disposed of at less than the appraised value, nor at less than one dollar and twenty-five cents per acre: *And provided, further*, That said sale shall be conducted by the register and receiver of the land-office in the district in which such reservation or reservations may be situated, in accordance with the instructions of the department regulating the sale of public lands.

Minimum price.

Sale, how conducted.

Agent for each reservation.

Residence, duties.

SEC. 4. *And be it further enacted*, That the President of the United States be, and he is hereby, authorized, by and with the advice and consent of the Senate, to appoint an Indian agent for each of the reservations which shall be established under the provisions of this act, which said agent shall reside upon the reservation for which he shall be appointed, and shall discharge all the duties now or hereafter to be required of Indian agents by law, or by rules and regulations adopted, or to be



adopted, for the regulation of the Indian service, so far as the same may be applicable. Each of the agents appointed as aforesaid shall, before entering upon the duties of his office, give bond in such penalties and with such conditions and such security as the President or Secretary of the Interior may require, and shall hold his office for the term of four years, unless sooner removed by the President, and shall receive an annual salary at the rate of eighteen hundred dollars.

Bond of agents.

Term of office, salary.

SEC. 5. *And be it further enacted*, That there may be appointed, in the manner prescribed by law, for each of said reservations, if in the opinion of the Secretary of the Interior the welfare of said Indians shall require it, one physician, one blacksmith, one assistant blacksmith, one farmer, and one carpenter, who shall each receive compensation at rates to be determined by the Secretary of the Interior, not exceeding fifty dollars per month.

Physician, blacksmith, farmer, carpenter, &amp;c.

Pay.

SEC. 6. *And be it further enacted*, That hereafter, when it shall become necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the general land-office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.

Reservations, how to be surveyed.

SEC. 7. *And be it further enacted*, That all Indian agents shall reside at their respective agencies, and shall in no case be permitted to visit the city of Washington except when ordered to do so by the commissioner of Indian affairs. And it is hereby made the duty of the said commissioner to report all cases of the violation of this section to the President, with the request that the agents disregarding the provisions herein contained be at once removed from office.

Indian agents to reside where; not to visit Washington except, &amp;c.

SEC. 8. *And be it further enacted*, That all acts or parts of acts in conflict with the provisions of this act, be, and the same are hereby, repealed; and all offices and employments connected with Indian affairs in California not provided for in this act be, and the same are hereby, abolished.

Repealing clause.

Offices, &amp;c., abolished.

APPROVED, April 8, 1864.

CHAP. XLIX. — *An Act to incorporate the Union Gaslight Company of the District of Columbia.* April 8, 1864.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That Sayles J. Bowen, William Elmer, William Bates, Robert W. Milbank, Andrew M. Kinney, William H. Baldwin, Z. D. Gilman, D. C. Forney, S. P. Brown, John Green, and Gamaliel Gay, and their associates and assigns, be, and they are hereby, created a body corporate, under the name of "The Union Gas-light Company of the District of Columbia," with authority to manufacture and sell gas, to be made of coal, zinc, oil, tar, pitch, peat, turpentine, or other material, and to be used in lighting the city of Washington and the streets thereof, and any buildings, manufactories, or houses therein situated, and to lay mains and pipes for the purpose of conducting gas in any of the avenues, streets, lanes, or alleys of the said city: *Provided, however*, That the said company shall so conduct the manufacture, and lay said mains and pipes, as not to create a nuisance or injure either private or public property: *And provided, further*, That the said mains and pipes shall be laid subject to such conditions and in compliance with such regulations as may be prescribed by the municipal authorities of the city of Washington; and the right to erect and establish any buildings, apparatus, or machinery for the manufacture of gas, shall be subject to such regulations and restrictions as may be from time to time prescribed by the said municipal authorities of Washington.

Union Gas-light Company incorporated.

Name; authority.

Not to create a nuisance.

To be under direction of city authorities.

SEC. 2. *And be it further enacted*, That the capital stock of the said company shall not be less than five hundred thousand, nor more than one million dollars, and that the said stock shall be divided into shares of one hundred dollars each, and shall be deemed personal property and

Capital stock. Number of shares.



Open space.

the administration of the criminal laws of said State and the service of civil process therein.

The building shall be unexposed to danger from fire by an open space of at least forty feet on each side, including streets and alleys.

Approved, January 12, 1891.

January 12, 1891.

**CHAP. 65.**—An act for the relief of the Mission Indians in the State of California.

Mission Indians, Cal.  
Settlement upon res-  
ervations.

Appointment of com-  
mission.

Duties of commis-  
sioners.  
Selection of reserva-  
tions.

Appraisal of im-  
provements.

Removals from con-  
firmed private grants.

Surveyor and assist-  
ants.

Report.

Issue of reservation  
trust-patents in com-  
mon.

Terms of trust.

Post, p. 713.

Provisos.

Existing valid rights.

Lien-lands to accept-  
ing settlers.

Settlers' rights.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That immediately after the passage of this act the Secretary of the Interior shall appoint three disinterested persons as commissioners to arrange a just and satisfactory settlement of the Mission Indians residing in the State of California, upon reservations which shall be secured to them as hereinafter provided.

**SEC. 2.** That it shall be the duty of said commissioners to select a reservation for each band or village of the Mission Indians residing within said State, which reservation shall include, as far as practicable, the lands and villages which have been in the actual occupation and possession of said Indians, and which shall be sufficient in extent to meet their just requirements, which selection shall be valid when approved by the President and Secretary of the Interior. They shall also appraise the value of the improvements belonging to any person to whom valid existing rights have attached under the public-land laws of the United States, or to the assignee of such person, where such improvements are situated within the limits of any reservation selected and defined by said commissioners subject in each case to the approval of the Secretary of the Interior. In cases where the Indians are in occupation of lands within the limits of confirmed private grants, the commissioners shall determine and define the boundaries of such lands, and shall ascertain whether there are vacant public lands in the vicinity to which they may be removed. And the said commission is hereby authorized to employ a competent surveyor and the necessary assistants.

**SEC. 3.** That the commissioners, upon the completion of their duties, shall report the result to the Secretary of the Interior, who, if no valid objection exists, shall cause a patent to issue for each of the reservations selected by the commission and approved by him in favor of each band or village of Indians occupying any such reservation, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus patented, subject to the provisions of section four of this act, for the period of twenty-five years, in trust, for the sole use and benefit of the band or village to which it is issued, and that at the expiration of said period the United States will convey the same or the remaining portion not previously patented in severalty by patent to said band or village, discharged of said trust, and free of all charge or incumbrance whatsoever: *Provided,* That no patent shall embrace any tract or tracts to which existing valid rights have attached in favor of any person under any of the United States laws providing for the disposition of the public domain, unless such person shall acquiesce in and accept the appraisal provided for in the preceding section in all respects and shall thereafter, upon demand and payment of said appraised value, execute a release of all title and claim thereto; and a separate patent, in similar form, may be issued for any such tract or tracts, at any time thereafter. Any such person shall be permitted to exercise the same right to take land under the public-land laws of the United States as though he had not made settlement on the lands embraced in said reservation; and a separate patent, in similar form, may be issued for



any tract or tracts at any time after the appraised value of the improvements thereon shall have been paid: *And provided further*, That in case any land shall be selected under this act to which any railroad company is or shall hereafter be entitled to receive a patent, such railroad company shall, upon releasing all claim and title thereto, and on the approval of the President and Secretary of the Interior, be allowed to select an equal quantity of other land of like value in lieu thereof, at such place as the Secretary of the Interior shall determine: *And provided further*, That said patents declaring such lands to be held in trust as aforesaid shall be retained and kept in the Interior Department, and certified copies of the same shall be forwarded to and kept at the agency by the agent having charge of the Indians for whom such lands are to be held in trust, and said copies shall be open to inspection at such agency.

Lieu-lands to accept-  
ing railroads.

Custody of trust-  
patents.  
Copies.

SEC. 4. That whenever any of the Indians residing upon any reservation patented under the provisions of this act shall, in the opinion of the Secretary of the Interior, be so advanced in civilization as to be capable of owning and managing land in severalty, the Secretary of the Interior may cause allotments to be made to such Indians, out of the land of such reservation, in quantity as follows: To each head of a family not more than six hundred and forty acres nor less than one hundred and sixty acres of pasture or grazing land, and in addition thereto not exceeding twenty acres, as he shall deem for the best interest of the allottee, of arable land in some suitable locality; to each single person over twenty-one years of age not less than eighty nor more than six hundred and forty acres of pasture or grazing land and not exceeding ten acres of such arable land.

Allotments in sev-  
eralty.

Head of family.

Single person.

SEC. 5. That upon the approval of the allotments provided for in the preceding section by the Secretary of the Interior he shall cause patents to issue therefor in the name of the allottees, which shall be of the legal effect and declare that the United States does and will hold the land thus allotted for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, of his heirs according to the laws of the State of California, and that at the expiration of said period the United States will convey the same by patent to the said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That these patents, when issued, shall override the patent authorized to be issued to the band or village as aforesaid, and shall separate the individual allotment from the lands held in common, which proviso shall be incorporated in each of the village patents.

Patents to allottees.

In trust.

In fee.

Prior conveyances,  
etc., void.

Proviso.

Power of severalty  
patents.

SEC. 6. That in cases where the lands occupied by any band or village of Indians are wholly or in part within the limits of any confirmed private grant or grants, it shall be the duty of the Attorney-General of the United States, upon request of the Secretary of the Interior, through special counsel or otherwise, to defend such Indians in the rights secured to them in the original grants from the Mexican Government, and in an act for the government and protection of Indians passed by the legislature of the State of California April twenty-second, eighteen hundred and fifty, or to bring any suit, in the name of the United States, in the Circuit Court of the United States for California, that may be found necessary to the full protection of the legal or equitable rights of any Indian or tribe of Indians in any of such lands.

Rights of Indians on  
Mexican land grants.

Attorney-General to  
defend, etc.

SEC. 7. That each of the commissioners authorized to be appointed by the first section of this act shall be paid at the rate of eight dollars per day for the time he is actually and necessarily employed in

Compensation of  
commissioners.



Appropriation.	the discharge of his duties, and necessary traveling expenses; and for the payment of the same, and of the expenses of surveying, the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.
Rights of way across reservations, prior to patent.	SEC. 8. That previous to the issuance of a patent for any reservation as provided in section three of this act the Secretary of the Interior may authorize any citizen of the United States, firm, or corporation to construct a flume, ditch, canal, pipe, or other appliances for the conveyance of water over, across, or through such reservation for agricultural, manufacturing, or other purposes, upon condition that the Indians owning or occupying such reservation or reservations shall, at all times during such ownership or occupation, be supplied with sufficient quantity of water for irrigating and domestic purposes upon such terms as shall be prescribed in writing by the Secretary of the Interior, and upon such other terms as he may prescribe, and may grant a right of way for rail or other roads through such reservation: <i>Provided</i> , That any individual, firm, or corporation desiring such privilege shall first give bond to the United States, in such sum as may be required by the Secretary of the Interior, with good and sufficient sureties, for the performance of such conditions and stipulations as said Secretary may require as a condition precedent to the granting of such authority: <i>And provided further</i> , That this act shall not authorize the Secretary of the Interior to grant a right of way to any railroad company through any reservation for a longer distance than ten miles. And any patent issued for any reservation upon which such privilege has been granted, or for any allotment therein, shall be subject to such privilege, right of way, or easement. Subsequent to the issuance of any tribal patent, or of any individual trust patent as provided in section five of this act, any citizen of the United States, firm, or corporation may contract with the tribe, band, or individual for whose use and benefit any lands are held in trust by the United States, for the right to construct a flume, ditch, canal, pipe, or other appliances for the conveyance of water over, across, or through such lands, which contract shall not be valid unless approved by the Secretary of the Interior under such conditions as he may see fit to impose.
Secretary of Interior may grant.	
For water pipes, etc.	
Conditions.	
For railroads, etc.	
Provisos.	
Conditional bond, etc.	
Limit of distance.	
Rights of way, after issue of patents.	
Subject to approval of Secretary of Interior.	

Approved, January 12, 1891.

January 12, 1891.

**CHAP. 66.**—An act for the erection of a public building at Newburgh, New York.

Newburgh, N. Y. Public building, etc.	<i>Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled</i> , That the Secretary of the Treasury be, and he is hereby, authorized and directed to acquire, by purchase, condemnation, or otherwise, a site and cause to be erected thereon a suitable building, including fire-proof vaults, heating and ventilating apparatus, elevators, and approaches, for the use and accommodation of the United States post-office and other Government offices, in the city of Newburgh and State of New York, the cost of said site and building, including said vaults, heating and ventilating apparatus, elevators, and approaches, complete, not to exceed the sum of one hundred thousand dollars. Proposals for the sale of land suitable for said site shall be invited by public advertisement in one or more of the newspapers of said city of largest circulation for at least twenty days prior to the date specified in said advertisement for the opening of said proposals. Proposals made in response to said advertisements shall be addressed and mailed to the Secretary of the Treasury, who shall then cause the said proposed sites, and such others as he may think proper to designate, to be examined in person by an agent of the Treasury
Site.	
Building.	
Cost.	
Proposals to be advertised for.	
Responses.	
Examination, etc., by Treasury agent.	



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Printing, and then in no instance shall the whole number exceed the number originally authorized by law.

SEC. 6. That section fifty-nine of the Act approved January twelfth, eighteen hundred and ninety-five, providing for the public printing and binding and the distribution of public documents, and sections eighty-one and ninety-nine of said Act, and the amendment thereto in the Act approved March second, eighteen hundred and ninety-five, Statutes at Large, volume twenty-eight, page nine hundred and sixty-one, chapter one hundred and eighty-nine, and all other laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

Approved, March 1, 1907.

Repeal provisions.  
Vol. 28, pp. 610, 621,  
624, 961.

CHAP. 2285.—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.

March 1, 1907.  
[H. R. 22580.]

[Public, No. 154.]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums be, and they are hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and in full compensation for all offices the salaries for which are specially provided for herein for the service of the fiscal year ending June thirtieth, nineteen hundred and eight, namely:

Indian Department  
appropriations.

#### I. GENERAL PROVISIONS.

General provisions.

##### PRESIDENT.

Under the President.

To enable the President to cause, under the provisions of the Act of February eighth, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of land in severalty to Indians," such Indian reservations as in his judgment are advantageous for agricultural and grazing purposes to be surveyed or resurveyed, for the purposes of said Act, and to complete the allotment of the same, including the necessary clerical work incident thereto in the field and in the Office of Indian Affairs, and delivery of trust patents, so far as allotments shall have been selected under said Act, forty thousand dollars.

Allotments in severalty.  
Vol. 24, p. 388.

##### SECRETARY.

Under the Secretary.

That no purchase of supplies for which appropriations are made herein, exceeding in the aggregate five hundred dollars in value at any one time, shall be made without first giving at least three weeks' public notice by advertisement, except in case of exigency, when, in the discretion of the Secretary of the Interior, who shall make official record of the facts constituting the exigency and shall report the same to Congress at its next session, he may direct that purchases may be made in open market in amount not exceeding three thousand dollars at any one purchase: *Provided*, That supplies may be purchased, contracts let, and labor employed for the construction of artesian wells, ditches, and other works for irrigation, in the discretion of the Secretary of the Interior, without advertising as hereinbefore provided: *Provided further*, That as far as practicable Indian labor shall be employed and purchase in the open market made from Indians, under the direction of the Secretary of the Interior. And the employment of such Indians and the hiring of their property, in connection with the construction of any irrigation project under the Reclamation Serv-

Purchase of supplies to be advertised.

Exception.

Proviso.  
Irrigation.

Open-market purchases, etc.

Work on irrigation projects.  
R. S., secs. 3709, 3744,  
pp. 733, 738.

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ice, shall be exempt from the provisions of sections thirty-seven hundred and nine and thirty-seven hundred and forty-four, Revised Statutes.	
Use of surplus for subsistence deficiencies.	That hereafter the Secretary of the Interior, under the direction of the President, may use any surplus that may remain in any of the said appropriations for the purchase of subsistence for the several Indian tribes, to an amount not exceeding twenty-five thousand dollars in the aggregate, to supply any subsistence deficiency that may occur: <i>Provided</i> , That any diversions which shall be made under authority of this section shall be reported in detail, and the reason therefor, to Congress, at the session of Congress next succeeding such diversion:
<i>Proviso.</i> Report of diversions.	<i>Provided further</i> , That the Secretary of the Interior, under direction of the President, may use any sums appropriated in this Act for subsistence, and not absolutely necessary for that purpose, for the purchase of stock cattle for the benefit of the tribe for which such appropriation is made, and shall report to Congress, at its next session thereafter, an account of his action under this provision: <i>Provided</i>
Stock cattle from subsistence funds.	<i>further</i> , That funds appropriated to fulfill treaty obligations shall not be used.
Treaty funds excluded.	That hereafter when not required for the purpose for which appropriated, the funds provided for the pay of specified employees at any Indian agency may be used by the Secretary of the Interior for the pay of other employees at such agency, but no deficiency shall be thereby created; and, when necessary, specified employees may be detailed for other service when not required for the duty for which they were engaged; and that the several appropriations made for millers, blacksmiths, engineers, carpenters, physicians, and other persons, and for various articles provided for by treaty stipulation for the several Indian tribes, may be diverted to other uses for the benefit of said tribes, respectively, within the discretion of the President, and with the consent of said tribes, expressed in the usual manner; and that he cause report to be made to Congress, at its next session thereafter, of his action under this provision: <i>Provided</i> , That so much of the appropriations of any annual Indian appropriation Act as may be required to pay for goods and supplies, for expenses incident to their purchase, and for transportation of the same, for the fiscal year for which such appropriations are made, shall be immediately available, upon the approval of such Act, but no such goods or supplies shall be distributed or delivered to any of said Indians prior to the beginning of such fiscal year.
Transfer of funds for employees, etc.	That hereafter where there is Government property on hand at any of the Indian reservations or schools not required for the use or benefit of the Indians of said reservations or schools, the Secretary of the Interior is hereby authorized to move such property to other Indian reservations or schools where it may be required.
<i>Proviso.</i> Amount for supplies immediately available.	
Transfer of property not in use.	
Commissioner.	COMMISSIONER.
Payment of taxes from share of allottee in tribal funds.	In any case where the restrictions as to alienation have been removed with respect to any Indian allottee, or as to any portion of the lands of any Indian allottee, and such allottee as an individual, or as a member of any tribe, has an interest in any fund held by the United States beyond the amount by law chargeable to such Indian or tribe on account of advances, the Commissioner of Indian Affairs is hereby authorized, prior to the date at which any penalties for the nonpayment of taxes would accrue under the laws of the State or Territory in which such land is situated, to pay such taxes and charge the amount thereof to such allottee, to be deducted from the share of such allottee in the final distribution or payment to him from such fund: <i>Provided</i> , That no such payment shall be made by said Commissioner
<i>Proviso.</i> Restriction.	



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where it is in excess of the amount which will ultimately be due said allottee.

For construction of ditches and reservoirs, purchase and use of irrigating tools and appliances, and purchase of water rights on Indian reservations, in the discretion of the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior and subject to his control, one hundred and twenty-five thousand dollars: *Provided*, That the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, may employ superintendents of irrigation, who shall be skilled irrigation engineers, not to exceed five, as in his judgment may be necessary to secure the construction of ditches and other irrigation works in a substantial and workmanlike manner.

Irrigation.

*Proviso.*  
Skilled engineers.

For survey and subdivision of Indian reservations and of lands to be allotted to Indians, and to make allotments in severalty, to be expended by the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, forty thousand dollars, of which fifteen thousand dollars shall be immediately available.

Surveying and al-  
lotting.

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to take action to suppress the traffic of intoxicating liquors among Indians, twenty-five thousand dollars;

Suppressing liquor  
traffic.

For support of Indian day and industrial schools, and for other educational purposes not hereinafter provided for, one million three hundred thousand dollars; and the powers conferred by section twenty-one hundred and forty of the Revised Statutes upon Indian agents, and subagents, and commanding officers of military posts are hereby conferred upon the special agent of the Indian Bureau for the suppression of the liquor traffic among Indians and in the Indian country and duly authorized deputies working under his supervision.

Support of schools.

Authority to special  
agent suppressing  
liquor traffic.  
R. S., sec. 2140, p. 373.

For construction, purchase, lease, and repair of school buildings, and for sewerage, water supply, and lighting plants, and purchase of school sites, and improvement of buildings and grounds, four hundred thousand dollars;

Construction of  
buildings, etc.

In all, one million seven hundred thousand dollars.

For collection and transportation of pupils to and from Indian schools, and also for the transportation of Indian pupils from all the Indian schools and placing of them, with the consent of their parents, under the care and control of such suitable white families as may in all respects be qualified to give such pupils moral, industrial, and educational training, seventy-five thousand dollars: *Provided*, That not exceeding five thousand dollars of this amount may be used, under direction of the Commissioner of Indian Affairs, in the transportation and placing of Indian pupils in positions where remunerative employment can be found for them in industrial pursuits. The provisions of this section shall apply to native pupils brought from Alaska.

Transporting pupils.

*Proviso.*  
Positions for pupils.

Alaska natives.

That all expenditure of money appropriated for school purposes in this Act shall be at all times under the supervision and direction of the Commissioner of Indian Affairs, and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time prescribed by him, subject to the supervision of the Secretary of the Interior: *Provided*, That, except for pay of superintendent, not more than one hundred and sixty-seven dollars shall be expended for the annual support and education of any one pupil in any school herein specifically provided for, except when, by reason of epidemic, accident, or other sufficient cause, the attendance is so reduced or cost of maintenance so high that a larger expenditure is absolutely necessary for the efficient operation of the school affected, when the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may allow a larger per capita expenditure, such expenditure to continue

Supervision of ex-  
penditures.

*Proviso.*  
Limit of per capita  
expense.



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Total for school.	only so long as the said necessity therefor shall exist: <i>Provided further,</i> That the total amount appropriated for the support of such school shall not be exceeded: <i>Provided further,</i> That the number of pupils in any school entitled to the per capita allowance hereby provided for shall be determined by taking the average enrollment for the entire fiscal year and not any fractional part thereof.
Determining per capita allowance.	
Admission of white children.	That hereafter white children may, under rules and regulations prescribed by the Commissioner of Indian Affairs, be admitted to any Indian day school: <i>Provided,</i> That the tuition fees charged for such children shall in no case exceed the tuition fees allowed or charged by the State or county in which such school is situated for the children admitted in the common schools of such State or county: <i>And provided further,</i> That all tuition fees paid for white children enrolled in Indian day schools shall be deposited in the United States Treasury to reimburse the funds out of which the schools last mentioned are maintained.
<i>Proviso.</i> Tuition fees.	
Deposit of fees.	
Special investigations.	To enable the Commissioner of Indian affairs, from time to time as he may deem necessary, to detail clerks from his office to make special investigations in the field, three thousand dollars, or so much thereof as may be necessary: <i>Provided,</i> That while thus absent from Washington under such detail they shall receive a per diem of three dollars to cover all expenses exclusive of transportation and sleeping-car fares.
<i>Proviso.</i> Per diem.	
Noncompetent Indians. Sale of allotments.	That any noncompetent Indian to whom a patent containing restrictions against alienation has been issued for an allotment of land in severalty, under any law or treaty, or who may have an interest in any allotment by inheritance, may sell or convey all or any part of such allotment or such inherited interest on such terms and conditions and under such rules and regulations as the Secretary of the Interior may prescribe, and the proceeds derived therefrom shall be used for the benefit of the allottee or heir so disposing of his land or interest, under the supervision of the Commissioner of Indian Affairs; and any conveyance made hereunder and approved by the Secretary of the Interior shall convey full title to the land or interest so sold, the same as if fee-simple patent had been issued to the allottee.
Proceeds.	
Fee title to issue.	

## MISCELLANEOUS.

Supplies. All expenses.	Telegraphing, telephoning, and purchase of Indian supplies: To pay the expense of purchasing goods and supplies for the Indian Service, including inspection and pay of necessary employees, and all other expenses connected therewith; advertising, at rates not exceeding regular commercial rates, and for telegraphing and telephoning, and for transportation of Indian goods and supplies, including pay and expenses of transportation agents and rent of warehouses, and warehouses for the receipt, storage, and shipping of goods for the Indian Service shall be maintained at the following places: New York, Chicago, Omaha, Saint Louis, and San Francisco, three hundred and fifteen thousand dollars.
Warehouses.	
Agency buildings.	For buildings and repairs of buildings at agencies and for rent of buildings for agency purposes, and for water supply at agencies, seventy-five thousand dollars.
Vaccination.	For pure vaccine matter and vaccination of Indians, five thousand dollars.
Printing in schools. R. S., sec. 3786, p. 744.	That the provisions of section thirty-seven hundred and eighty-six of the Revised Statutes of the United States shall not hereafter apply to such work of the Indian Department as can be executed at the several Indian schools.



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## II. GENERAL OFFICERS AND EMPLOYEES.

General officers and  
employees.

## BOARD OF INDIAN COMMISSIONERS.

For expenses of the commission of citizens, serving without compensation, appointed by the President under the provisions of the fourth section of the Act of April tenth, eighteen hundred and sixty-nine, four thousand dollars, of which amount not to exceed three hundred dollars may be used by the commission for office rent.

Citizen commission.  
Vol. 16, p. 46.

## INSPECTORS.

Inspectors.

For pay of eight Indian inspectors, two of whom shall be engineers, one to be designated as chief, competent in the location, construction, and maintenance of irrigation works, at two thousand five hundred dollars per annum each, except the chief engineer, who shall receive three thousand five hundred dollars, twenty-one thousand dollars.

Irrigation.

For traveling expenses of eight Indian inspectors, at three dollars per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law, and for incidental expenses of negotiation, inspection, and investigation, including telegraphing and expenses of going to and going from the seat of government, and while remaining there under orders and direction of the Secretary of the Interior, for a period not to exceed twenty days, twelve thousand eight hundred dollars.

Expenses.

## SUPERINTENDENT OF INDIAN SCHOOLS.

For pay of one superintendent of Indian schools, three thousand dollars.

Superintendent of  
schools.

For necessary traveling expenses of one superintendent of Indian schools, including telegraphing and incidental expenses of inspection and investigation, one thousand five hundred dollars: *Provided*, That he shall be allowed three dollars per day for traveling expenses when actually on duty in the field, exclusive of cost of transportation and sleeping-car fare, in lieu of all other expenses now allowed by law: *And provided further*, That he shall perform such other duties as may be imposed upon him by the Commissioner of Indian Affairs, subject to the approval of the Secretary of the Interior.

Expenses.

Provision.  
Per diem.

Other duties.

## INTERPRETERS.

For payment of necessary interpreters, to be distributed in the discretion of the Secretary of the Interior, four thousand dollars; but no person employed by the United States and paid for any other service shall be paid for interpreting.

Interpreters.

## POLICE.

For services of officers at twenty-five dollars per month each, and privates at twenty dollars per month each, of Indian police, to be employed in maintaining order and prohibiting illegal traffic in liquor on the several Indian reservations and within the Territory of Alaska, in the discretion of the Secretary of the Interior, for the purchase of equipments, and for the purchase of rations for policemen at non-ration agencies, two hundred thousand dollars.

Police.

## MATRONS.

To enable the Secretary of the Interior to employ suitable persons as matrons to teach Indian girls in housekeeping and other household

Matrons.

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*Proviso.*  
Additional.  
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duties, at a rate not to exceed sixty dollars per month, and for furnishing necessary equipments, and renting quarters where necessary, twenty-five thousand dollars: *Provided*, That the amount paid said matrons shall not come within the limit for employees fixed by the Act of June seventh, eighteen hundred and ninety-seven.

## FARMERS AND STOCKMEN.

*Farmers and stock-*  
*men.*

*Provisos.*  
Additional.  
Vol. 80, p. 90.

At schools.

To enable the Commissioner of Indian Affairs to employ practical farmers and practical stockmen, subject only to such examination as to qualifications as the Secretary of the Interior may prescribe, in addition to the agency farmers now employed, at wages not exceeding seventy-five dollars each per month, to superintend and direct farming and stock raising among such Indians as are making effort for self-support, one hundred and twenty-five thousand dollars: *Provided*, That the amounts paid said farmers and stockmen shall not come within the limit for employees fixed by the Act of June seventh, eighteen hundred and ninety-seven: *Provided further*, That the Commissioner of Indian Affairs may employ additional farmers at any Indian school at not exceeding sixty dollars per month, subject only to such examination as the Secretary of the Interior may prescribe, said farmers to be in addition to the school farmers now employed.

## JUDGES.

*Judges, Indian*  
*courts.*

For compensation of judges of Indian courts, twelve thousand dollars.

## CONTINGENCIES.

Contingencies.

For contingencies of the Indian service, including traveling and incidental expenses of Indian agents and of their offices, and of the Commissioner of Indian Affairs; also traveling and incidental expenses of special agents, at three dollars per day when actually employed on duty in the field, exclusive of transportation and sleeping-car fare, in lieu of all other expenses now authorized by law, and expenses of going to and going from the seat of government, and while remaining there under orders and direction of the Commissioner of Indian Affairs, for a period not to exceed twenty days; for pay of employees not otherwise provided for, and for pay of special agents, at two thousand dollars per annum each, seventy-five thousand dollars.

Indian agents.

## INDIAN AGENTS—PROVISO.

*Salaries not avail-*  
*able for active army*  
*officers.*

*School superintend-*  
*ents may act as*  
*agents.*

Additional pay.

The appropriations herein or hereafter made for the salaries of Indian agents shall not take effect nor become available in any case for or during the time in which any active officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies hereafter named; and the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of any Indian agency or part thereof upon the superintendent of the Indian school located at such agency or part thereof whenever in his judgment such superintendent can properly perform the duties of such agency. And the superintendent upon whom such duties devolve shall give bond as other Indian agents. That the pay of any superintendent who performs agency duties in addition to those of his superintendency may be increased by the Commissioner of Indian Affairs, in his discretion, to an extent not exceeding three hundred dollars per annum.



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## ARIZONA.

Arizona.

For pay of Indian agent at the San Carlos Agency, Arizona, one thousand eight hundred dollars.

San Carlos agency. Agent.

For support and civilization of the Apache and other Indians in Arizona and New Mexico who have been or may be collected on reservations in Arizona and New Mexico, two hundred and twenty-five thousand dollars: *Provided*, That the unexpended balance for the fiscal year nineteen hundred and seven is hereby appropriated and made available for nineteen hundred and eight.

Apaches, etc. Support, etc.

*Proviso.*  
Balance available.

That the Secretary of the Interior be, and he is hereby, authorized to allot lands in severalty to the Indians of the Moqui Reservation in Arizona, in such quantities as may be for their best interests: *Provided*, That the allotments hereunder made shall otherwise be subject to the provisions of the Act of March second, eighteen hundred and eighty-seven, entitled "An Act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," and the amendments thereto.

Moqui Reservation. Allotments.

*Proviso.*  
Restrictions.  
Vol. 24, p. 388.

For support and civilization of the Indians of Pima Agency, Arizona, forty thousand dollars, to be expended for their benefit in such manner as the Secretary of the Interior, in his discretion, may deem best.

Pima Agency. Support, etc., of Indians.

## FORT MOJAVE SCHOOL.

For support and education of two hundred Indian pupils at the Indian school at Fort Mojave, Arizona, thirty-three thousand four hundred dollars, and for pay of superintendent, one thousand six hundred dollars;

Fort Mojave school.

For general repairs and improvements, two thousand dollars;

For boys' dormitory, eight thousand dollars;

For lighting plant, two thousand dollars;

In all, forty-five thousand dollars.

## PHOENIX SCHOOL.

For support and education of seven hundred Indian pupils at the Indian school at Phoenix, Arizona, one hundred and sixteen thousand nine hundred dollars, and for pay of superintendent, two thousand five hundred dollars;

Phoenix school.

For general repairs and improvements, ten thousand dollars;

For addition to water system, seven thousand five hundred dollars;

In all, one hundred and thirty-six thousand nine hundred dollars.

*Provided*, That the Secretary of War is hereby authorized and directed to cause to be issued to the Indian school at Phoenix, Arizona, upon the request of the Secretary of the Interior, sixty Springfield cadet rifles, or other similar rifles, with the necessary equipment therefor, for the instruction of the pupils of the school.

*Proviso.*  
Rifles to cadets.

## TRUXTON CANYON SCHOOL.

For support and education of one hundred and ten pupils at the Indian school at Truxton Canyon, Arizona, eighteen thousand four hundred and seventy dollars, and for pay of superintendent, one thousand five hundred dollars;

Truxton Canyon school.

General repairs and improvements, two thousand five hundred dollars;

Maintaining irrigation plant, one thousand dollars;

In all, twenty-three thousand four hundred and seventy dollars.

For general incidental expenses of the Indian Service in Arizona, including traveling expenses of agents, one thousand five hundred dollars.

Incidentals.

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## Pima Indians.

## PIMA INDIANS.

Payment of share  
in Salt River irriga-  
tion project.  
*Ante*, p. 333.

Vol. 88, p. 1081.

That the Secretary of the Interior may, in his discretion, use such part of the three hundred thousand dollars heretofore appropriated for an irrigation system for the Pima Indians in the payment of such Indians' proportionate part of the construction of the Salt River project, and such funds may be transferred to the Reclamation fund, to be expended by that Service in accordance with its rules and regulations; the Indians to receive a credit upon the reclamation charge assessed against their lands under the Salt River project for the amount so transferred.

## California.

## CALIFORNIA.

Mission Indians.  
Support, etc.

For support and civilization of the Mission Indians in California, including pay of employees, five thousand dollars.

Northern Indians.  
Support, etc.

For support and civilization of the Northern Indians, California, ten thousand dollars.

## SHERMAN INSTITUTE.

Sherman Institute,  
Riverside.

For support and education of five hundred Indian pupils at the Sherman Institute, Riverside, California, eighty-three thousand five hundred dollars, and for pay of superintendent, two thousand five hundred dollars;

For general repairs and improvements, eight thousand dollars;

For additional water and sewer system, two thousand five hundred dollars;

For addition to laundry, two thousand dollars;

For additional farm buildings and improvements, eight thousand dollars;

For two employees' cottages, six thousand dollars;

For cement walks, curbing, and guttering, five thousand dollars;

For concreting reservoir, three thousand dollars;

In all, one hundred and twenty thousand five hundred dollars.

## Incidentals.

For general incidental expenses of the Indian service in California, including traveling expenses of agents, and support and civilization of Indians at the Round Valley, Hoopa Valley, and Tule River agencies, four thousand dollars;

And pay of employees at same agencies, seven thousand dollars;

In all, eleven thousand dollars.

Round Valley Res-  
ervation.  
Removal of obstruc-  
tions in.  
*Ante*, p. 333.

That the paragraph in the Indian appropriation Act, approved June twenty-first, nineteen hundred and six (Thirty-fourth Statutes at Large, pages three hundred and twenty-five to three hundred and thirty-three), relating to the removal of obstructions from the bed of a stream in the Round Valley Reservation, California, be amended as follows: Insert after the word "obstructions" the words "both within and without the reservation;" strike out the words "drains into the Eel River in" and insert the words "flows through" and insert after the word "California" the words "and drains into the Eel River."

Payment for lands  
erroneously entered.

For payment to the Indians of the Round Valley Indian Reservation, in such manner as the Secretary of the Interior may direct, five hundred and three dollars and fifty cents for four hundred and two and eighty-hundredths acres of land, at the rate of one dollar and twenty-five cents per acre, which lands were erroneously entered by homestead and other claimants while they were a part of the Round Valley Reservation.

Mission Indians.  
Additional lands to  
be patented to.  
Vol. 26, p. 712.

That section three of the Act approved January twelfth, eighteen hundred and ninety-one, entitled "An Act for the relief of the Mission Indians in the State of California," be, and the same is hereby, so amended as to authorize the Secretary of the Interior to select, set apart, and cause to be patented to the Mission Indians such tracts of the public lands of the United States, in the State of California, as he



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shall find upon investigation to have been in the occupation and possession of the several bands or villages of Mission Indians, and are now required and needed by them, and which were not selected for them by the Commission as contemplated by section two of said Act; and to appraise or cause to be appraised the value of any improvements belonging to any person to whom any valid existing rights have attached under the public-land laws of the United States, or to the assignee of such person where such improvements are situated within the limits of any reservation selected, enlarged, or defined under the provisions of this Act: *Provided*, That no patent issued under the provisions of this Act shall embrace any tract or tracts to which valid existing rights have attached in favor of any person under any of the United States laws providing for the disposition of the public domain, unless such person shall acquiesce in and accept the appraisal provided for in this Act in all respects and shall thereafter, upon demand and payment of such appraised value, execute a release of all claims and title thereto.

Appraisal of improvements by settlers.

Proviso. Release of title, etc.

## COLORADO.

Colorado.

## FORT LEWIS SCHOOL.

Fort Lewis school.

For the support and education of two hundred Indian pupils at the Indian school at Fort Lewis, Colorado, thirty-three thousand four hundred dollars; and for pay of superintendent, one thousand seven hundred dollars;

For general repairs and improvements, and improvement to water system, ten thousand dollars;

In all, forty-five thousand one hundred dollars.

## GRAND JUNCTION SCHOOL.

Grand Junction school.

For support and education of two hundred Indian pupils at the Indian school at Grand Junction, Colorado, thirty-three thousand four hundred dollars, and for pay of superintendent, one thousand six hundred dollars;

General repairs and improvements, five thousand dollars;

Machinery for laundry and shops, three thousand two hundred dollars;

In all, forty-three thousand one hundred and fifty dollars.

For general incidental expenses of the Indian Service in Colorado, including traveling expenses of agents, one thousand dollars.

Incidentals.

## IDAHO.

Idaho.

For a superintendent in charge of agency and educational matters on the Coeur d'Alene Reservation, Idaho, one thousand two hundred dollars.

Coeur d'Alene Reservation.

For support and civilization of the Shoshones and Bannocks, Sheep-eaters, and other Indians of the Fort Hall Reservation, in Idaho, including pay of employees, thirty thousand dollars, ten thousand dollars to be immediately available.

Fort Hall Reservation. Support, etc., of Indians.

For general incidental expenses of the Indian Service in Idaho, including traveling expenses of agents, one thousand dollars.

Incidentals.

SHOSHONES AND BANNOCKS. (Treaty.) (For Shoshones, see Wyoming.)

BANNOCKS: For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars.

Bannocks. Fulfilling treaty. Vol. 15, p. 676.

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Coeur d'Alenes.

COEUR D'ALENES. (Treaty.)

Blacksmith, etc.  
Vol. 26, p. 1029.

For pay of blacksmith, carpenter, and physician, and purchase of medicines, as per the eleventh article of agreement, ratified by Act March, eighteen hundred and ninety-one, three thousand five hundred dollars.

Fort Hall Indians.

FORT HALL INDIANS. (Treaty.)

Fulfilling treaty.  
Vol. 25, p. 688.

For nineteenth of twenty installments, as provided in agreement with said Indians approved February twenty-third, eighteen hundred and eighty-nine, to be used by the Secretary of the Interior for the benefit of the Indians in such manner as the President may direct, six thousand dollars.

Lemhi Agency.  
Fulfilling treaty  
with Indians formerly  
of.  
Vol. 25, p. 688.

FULFILLING TREATIES WITH INDIANS FORMERLY OF LEMHI AGENCY, IDAHO: For first of twenty installments, as provided in agreement with the Indians of Fort Hall and Lemhi agencies, Idaho, approved February twenty-third, eighteen hundred and eighty-nine, to be used by the Secretary of the Interior for the benefit of the Indians removed to Fort Hall Reservation from Lemhi Agency, Idaho, in such manner as the President may direct, four thousand dollars.

In all, ten thousand dollars.

Fort Hall Reserva-  
tion.  
Purchase of lands  
for irrigation reser-  
voir.

That the Secretary of the Interior be, and he is hereby, authorized to acquire by purchase or condemnation on behalf of the United States all land in townships four, five, six, and seven south, range forty, forty-one, and forty-two east, Boise meridian in Idaho, that he shall deem necessary in constructing a reservoir for storing water for the purpose of irrigating lands on the Fort Hall Indian Reservation and those ceded by the Indians of the said reservation, and also the lands, rights, and property which he may determine to be necessary to the success of any plan or project for the said purpose; or he may cause the enlargement to be made of any irrigating system in accordance with the laws of Idaho that circumstances may require.

Construction of  
project.

Upon acquiring the site, as herein provided, the Secretary may cause the system determined on to be constructed by contract or otherwise, in sections or as a whole, as he may determine, and may sell the water right for lands in private ownership at six dollars an acre, but no such right shall permanently attach until all payments therefor are made.

Payment of water  
rights.

The amount at which such water rights shall be sold shall be payable in five equal annual installments, to be paid to the receiver of the local land office, and the failure to make any two payments shall work a forfeiture of the rights acquired by the purchaser, and he shall lose the money previously paid and the water right for the land, but it may be purchased by another person who shall thereafter acquire the land in question at such price and on such conditions as the Secretary of the Interior may determine, but not less than the cost originally determined. In addition, the same fee shall be paid to the register and receiver as though the land was entered as a part of the public domain at one dollar and twenty-five cents an acre; the money so paid, less the fee, shall reimburse the United States for the expenditures made thereunder.

Additional fee.

Free use to Indians.

The land susceptible of irrigation under the system herein provided and owned by Indians in severalty or in common shall be deemed to have a right to so much water as may be required to irrigate said lands, without cost to the Indians so long as the title remains in said Indians or tribe, but any such lands leased for a longer term than three years shall bear their pro rata part of the cost of the maintenance of the system that may be constructed, and when the Indian title is extinguished these lands shall also bear their pro rata cost of maintenance.

Leased lands.

Transfer of owner-  
ship of completed  
project.

When the payments required by this Act are made for the major part of the lands that can be irrigated from the system, the management



and operation of such irrigation work 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, in accordance with the statute of the State of Idaho. The title to and management and operation of the reservoir and the works necessary to its protection and operation shall remain in the Government until otherwise provided by Congress. The Government institutions established for the administration of the affairs of the Fort Hall Reservation, including the school plant and farm, shall have sufficient water for their needs without cost, and any town or city embraced within the project may acquire water rights sufficient for its needs on such terms and condition, as the Secretary of the Interior may impose.

Water for reservation, etc.

The water rights acquired or provided for in this measure shall be appurtenant to the lands irrigated, and there is hereby appropriated for the purpose of carrying out the provisions of this Act, three hundred and fifty thousand dollars, which shall be reimbursed the United States from the moneys obtained from the sale of water rights, and the Secretary of the Interior shall have full power to do all acts or make all rules and regulations necessary to carry out the provisions of this Act relating to the foregoing irrigation system.

Water rights appurtenant to lands irrigated.  
Appropriation.

#### INDIAN TERRITORY.

Indian Territory.

For pay of Indian agent at the Union Agency, Indian Territory, three thousand dollars.

Union agency.  
Agent.

For special clerical force in the office of the United States Indian agent, Union Agency, and miscellaneous expenses in connection with entering of remittances received on account of payments of town lots and issuance of patents, and conveying same, six thousand dollars.

Clerks, etc.

For clerical work and labor connected with the leasing of Creek and Cherokee lands, for mineral and other purposes, and the leasing of lands of full-blood Indians under the Act of April twenty-sixth, nineteen hundred and six, thirty thousand dollars; for clerical work and labor connected with the sale of inherited and other lands, Five Civilized Tribes, thirty thousand dollars; in all, sixty thousand dollars: *Provided*, That the sums so expended shall be reimbursable out of the proceeds of such land sales and leases, and shall be equitably apportioned by the Secretary of the Interior from the moneys collected from such sales and leases.

Five Civilized Tribes.  
Leasing, etc., lands of, expenses.  
*Ante*, pp. 144, 145.

*Proviso*.  
Reimbursement.

Removal of intruders, Five Civilized Tribes: For the purpose of removing intruders and placing allottees in unrestricted possession of their allotments, to be expended under the direction of the Secretary of the Interior, fifteen thousand dollars.

Removal of intruders.

To enable the Secretary of the Interior to carry out the provisions of the Act approved April twenty-first, nineteen hundred and four, for the removal of restrictions upon the alienation of lands of allottees of the Five Civilized Tribes, twenty-five thousand dollars: *Provided*, That so much as may be necessary may be used in the employment of clerical force in the office of Commissioner of Indian Affairs.

Removing alienation restrictions.  
Vol. 33, p. 204.

*Proviso*.  
Clerks.

Ten thousand dollars, or so much thereof as may be necessary, to be immediately available, in the payment of indebtedness already incurred, necessarily expended in suppressing the spread of smallpox in the Indian Territory during the fiscal year ended June thirtieth, nineteen hundred and one, all accounts to be first examined and approved by the Secretary of the Interior as just and reasonable before being paid.

Suppressing smallpox, 1901.

For general incidental expenses of the Indian Service in the Indian Territory, and for pay of employees, twenty-two thousand dollars.

Incidentals.



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Inspector.

INSPECTOR.

Office expenses.

Vol. 30, p. 504.

For clerical and incidental expenses of the United States inspector's office, Indian Territory, in accordance with the provisions of section twenty-seven of the Act of June twenty-eighth, eighteen hundred and ninety-eight, entitled "An Act for the protection of the people of the Indian Territory, and for other purposes," eighteen thousand dollars.

Investigating leases.

To enable the Secretary of the Interior to investigate or cause to be investigated any lease of allotted land in the Indian Territory which he has reason to believe has been obtained by fraud or in violation of the terms of existing agreements with any of the Five Civilized Tribes, as provided by the Act approved March third, nineteen hundred and five, ten thousand dollars.

Transferring records of recorders, etc.

The Attorney-General be, and he is hereby, authorized to make all necessary arrangements for the transfer from the clerks of the United States courts in the Indian Territory and their deputies in their capacities as clerks and as ex officio recorders, to the proper State or county officials of the State of Oklahoma when organized, all records, papers, and files now in the custody of said clerks and their deputies, and he is authorized to pay the necessary expense incident thereto out of the excess of emoluments earned by said clerks and their deputies whether as clerks and deputy clerks or as ex officio recorders of deeds and other instruments during the calendar years nineteen hundred and six and nineteen hundred and seven, notwithstanding the Act of February nineteen, nineteen hundred and three (Thirty-two Statutes at Large, page eight hundred and forty-two).

Completion of records.  
Allowance to clerks.

That to enable the clerks and deputy clerks of the United States courts in Indian Territory who are ex officio recorders to complete their records they shall be allowed to retain for such purpose a per centum of the fees earned by them for filing and recording deeds and other instruments in addition to the compensation now provided by law, the amount so to be allowed and retained to be determined and approved by the Attorney-General of the United States.

Notice of leases.

The filing heretofore or hereafter of any lease in the office of the United States Indian agent, Union Agency, Muskogee, Indian Territory, shall be deemed constructive notice.

Orphan Indian children.  
Contract for care.

That the Secretary of the Interior be, and he is hereby, authorized to make such contract as in his judgment seems advisable for the care of orphan Indian children in the Indian Territory, and for the purpose of carrying this provision into effect the sum of ten thousand dollars, or so much thereof as is necessary, is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Five Civilized Tribes.

SCHOOLS.

Schools.

For the maintenance, strengthening, and enlarging of the tribal schools of the Cherokee, Creek, Choctaw, Chickasaw, and Seminole nations, and making provision for the attendance of children of parents of other than Indian blood therein, and the establishment of new schools under the control of the Department of the Interior, the sum of three hundred thousand dollars, or so much thereof as may be necessary, to be placed in the hands of the Secretary of the Interior, and disbursed by him under such rules and regulations as he may prescribe.

FIVE CIVILIZED TRIBES.

Completing commission's work.

For the completion of the work heretofore required by law to be done by the Commission to the Five Civilized Tribes, one hundred and fifty-seven thousand dollars, said appropriation to be disbursed under the direction of the Secretary of the Interior.

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That the Secretary of the Interior, or his accredited representative, shall at all times have access to any books and records of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, whether in possession of any of the officers of either of said tribes or any officer or custodian thereof, of the future State of Oklahoma.

Access to records.

## CHOCTAWS. (Treaty.)

Choctaws.

For permanent annuity, per second article of treaty of November sixteenth, eighteen hundred and five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, three thousand dollars;

Annuities.  
Vol. 7, p. 99.  
Vol. 11, p. 614.

For permanent annuity for support of light horsemen, per thirteenth article of treaty of October eighteenth, eighteen hundred and twenty, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, six hundred dollars;

Light horsemen.  
Vol. 7, p. 213.

Vol. 11, p. 614.

For permanent annuity for support of blacksmith, per sixth article of treaty of October eighteenth, eighteen hundred and twenty, ninth article of treaty of January twentieth, eighteen hundred and twenty-five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, six hundred dollars;

Blacksmith.  
Vol. 7, pp. 212, 236.

Vol. 11, p. 614.

For permanent annuity for education, per second and thirteenth articles of last two treaties named above, six thousand dollars;

Education.  
Vol. 7, p. 235.  
Vol. 11, p. 614.  
Iron and steel.  
Vol. 7, p. 236.  
Vol. 11, p. 614.

For permanent annuity for iron and steel, per ninth article of treaty of January twentieth, eighteen hundred and twenty-five, and thirteenth article of treaty of June twenty-second, eighteen hundred and fifty-five, three hundred and twenty dollars;

Interest.

For interest on three hundred and ninety thousand two hundred and fifty-seven dollars and ninety-two cents, at five per centum per annum, for education, support of the government, and other beneficial purposes, under the direction of the general council of the Choctaws, in conformity with the provisions contained in the ninth and thirteenth articles of treaty of January twentieth, eighteen hundred and twenty-five, and treaty of June twenty-second, eighteen hundred and fifty-five, nineteen thousand five hundred and twelve dollars and eighty-nine cents;

Vol. 7, p. 236.

Vol. 11, p. 614.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Choctaw tribe of Indians the sum of three hundred and ninety thousand two hundred and fifty-seven dollars and ninety-two cents, balance due said tribe under articles ten and thirteen of the treaty of June twenty-second, eighteen hundred and fifty-five (Eleventh Statutes at Large, six hundred and eleven), and the same shall draw interest at three per centum per annum.

Funds to credit of tribe.

Vol. 11, pp. 613, 614.

In all, four hundred and twenty thousand two hundred and ninety dollars and eighty-one cents.

That upon the passage of this Act tribal courts of the Choctaw and Chickasaw nations shall be abolished, and no officer of said courts shall thereafter have any authority whatever to do or perform any act theretofore authorized by any law in connection with said courts or to receive any pay for the same; and all civil and criminal causes then pending in any such court in said nations shall be transferred to the proper United States court in said Territory by filing with the clerk of the court the original papers.

Tribal courts abolished.

Transfer of causes.

That the city of McAlester, Indian Territory, may legally issue, in addition to its present outstanding indebtedness, bonds to the amount of one hundred and seventy-five thousand dollars for the purchase of sites and the erection of schoolhouses thereon, notwithstanding any provision of any law of the United States put in force and made applicable to the Choctaw and Chickasaw nations, Indian Territory,

McAlester.  
May issue bonds for sites and schoolhouses.



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*Proviso.*  
Conditions.  
Vol. 32, p. 563.

limiting the aggregate indebtedness of any municipal corporation therein to a fixed per centum of its taxable property: *Provided*, That such bonds shall be issued in all other respects in accordance with section fifty-five of the Act of Congress approved July first, nineteen hundred and two, entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes."

*Nocus Fixico.*  
Alienation restrictions removed.

That all restrictions as to the sale and encumbrance of the southeast quarter of the northwest quarter of section thirteen, township eleven, range nine east, in Indian Territory, the same being the homestead heretofore allotted to Nocus Fixico, Creek Indian allottee numbered six thousand nine hundred and thirty-four, are hereby removed.

*Cherokee citizens.*  
Suits authorized in Court of Claims to test validity of laws restricting rights of alienation, etc.  
Vol. 32, p. 716; Vol. 33, pp. 205, 208.

That William Brown and Levi B. Gritts, on their own behalf and on behalf of all other Cherokee citizens, having like interests in the property allotted under the Act of July first, nineteen hundred and two, entitled "An Act to provide for the allotment of lands of the Cherokee Nation, for the disposition of town sites therein, and for other purposes," and David Muskrat and J. Henry Dick, on their own behalf, and on behalf of all Cherokee citizens enrolled as such for allotment as of September first, nineteen hundred and two, be, and they are hereby, authorized and empowered to institute their suits in the Court of Claims to determine the validity of any Acts of Congress passed since the said Act of July first, nineteen hundred and two, in so far as said Acts, or any of them, attempt to increase or extend the restrictions upon alienation, encumbrance, or the right to lease the allotments of lands of Cherokee citizens, or to increase the number of persons entitled to share in the final distribution of lands and funds of the Cherokees beyond those enrolled for allotment as of September first, nineteen hundred and two, and provided for in the said Act of July first, nineteen hundred and two.

*Ante*, p. 138.

*Appeals.*

And jurisdiction is hereby conferred upon the Court of Claims, with the right of appeal, by either party, to the Supreme Court of the United States, to hear, determine and adjudicate each of said suits.

The suits brought hereunder shall be brought on or before September first, nineteen hundred and seven, against the United States as a party defendant, and for the speedy disposition of the questions involved, preference shall be given to the same by said courts, and by the Attorney-General, who is hereby charged with the defense of said suits.

*Amount to be paid attorneys.*

Upon the rendition of final judgment by the Court of Claims, or the Supreme Court of the United States, denying the validity of any portion of the said Acts, authorized to be brought into question, in either or both of said cases, the Court of Claims shall determine the amount to be paid the attorneys employed by the above-named parties in the prosecution thereof, for services and expenses, and shall render judgment therefor, which shall be paid out of the funds in the United States Treasury belonging to the beneficiaries under the said Act of July first, nineteen hundred and two.

*Quapaws.*

QUAPAWS. (Treaty.)

*Fulfilling treaty.*  
Vol. 7, p. 425.

For education, per third article of treaty of May thirteenth, eighteen hundred and thirty-three, one thousand dollars;

For blacksmith and assistants, and tools, iron, and steel for blacksmith shop, per same article and treaty, five hundred dollars;

*Proviso.*  
Certificate of President.

In all, one thousand five hundred dollars: *Provided*, That the President of the United States shall certify the same to be for the best interests of the Indians.

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## SEMINOLES. (Treaty.)

Seminoles.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per eighth article of treaty of August seventh, eighteen hundred and fifty-six, twelve thousand five hundred dollars;

Interest.  
Vol. II, p. 702.

For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity (they having joined their brethren West), per eighth article of treaty of August seventh, eighteen hundred and fifty-six, twelve thousand five hundred dollars;

For interest on fifty thousand dollars, at the rate of five per centum per annum, to be paid annually, for the support of schools, as per third article of treaty of March twenty-first, eighteen hundred and sixty-six, two thousand five hundred dollars;

Vol. II, p. 757.

For interest on twenty thousand dollars, at the rate of five per centum per annum, to be paid annually, for the support of the Seminole government, as per same article, same treaty, one thousand dollars;

In all, twenty-eight thousand five hundred dollars.

For the care and support of insane persons in Indian Territory, to be expended under the direction of the Secretary of the Interior, thirty-five thousand dollars, or so much thereof as may be necessary: *Provided, however*, That insane Indian citizens in said Territory shall be cared for at the asylum in Canton, Lincoln County, South Dakota.

Care of insane.

*Proviso.*  
Indians at Canton,  
S. Dak.

That the heirs of the late Mathias Splitlog, deceased, an Indian allottee of the Seneca Nation, Indian Territory, are authorized to sell and convey to the Roman Catholic Church, for church and burial purposes, three acres of the land heretofore allotted to the said Mathias Splitlog, as a member of the Seneca tribe of Indians in Indian Territory, to be selected so as to include the church and cemetery now on said allotment. The minor heirs may join in the sale of said three acres of land by a guardian duly appointed by the United States court for the northern district of the Indian Territory.

Mathias Splitlog.  
Heirs may sell land  
for church, etc.

## IOWA.

Iowa.

## SAC AND FOX SCHOOL.

For support and education of eighty Indian pupils, at the Indian school on the Sac and Fox Reservation, Iowa, thirteen thousand five hundred and sixty dollars, and for pay of superintendent, one thousand dollars;

Sac and Fox Reservation  
school.

For general repairs and improvements, two thousand dollars;

In all, sixteen thousand and sixty dollars.

## KANSAS.

Kansas.

## HASKELL INSTITUTE.

For support and education of seven hundred and fifty Indian pupils at the Indian school, Haskell Institute, Lawrence, Kansas, and for transportation of pupils to and from said school, one hundred and thirty-five thousand two hundred and fifty dollars, and for pay of superintendent, two thousand five hundred dollars;

Haskell Institute,  
Lawrence.

For general repairs and improvements, fifteen thousand dollars;

For shop building, ten thousand dollars;

In all, one hundred and sixty-two thousand seven hundred and fifty dollars.

## KICKAPOO INDIAN SCHOOL.

For support and education of eighty Indian pupils at the Indian school, Kickapoo Reservation, Kansas, thirteen thousand three hun-

Kickapoo Reserva-  
tion school.



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dred and sixty dollars, and for pay of superintendent, one thousand three hundred dollars;

General repairs and improvements, three thousand dollars;

In all, seventeen thousand six hundred and sixty dollars.

Iowas.

IOWAS. (Treaty.)

Interest.

For interest in lieu of investment on fifty-seven thousand five hundred dollars, balance of one hundred and fifty-seven thousand five hundred dollars, to July first, nineteen hundred and seven, at five per centum per annum, for education or other beneficial purposes, under the direction of the President, per ninth article of treaty of May seventeenth, eighteen hundred and fifty-four, two thousand eight hundred and seventy-five dollars.

Vol. 10, p. 1071.

Principal to credit of tribe.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Iowa tribe of Indians the sum of fifty-seven thousand five hundred dollars, the amount due the tribe under the ninth article of the treaty of May seventeenth, eighteen hundred and fifty-four (Tenth Statutes at Large, page one thousand and sixty-nine), and the Secretary of the Interior is authorized to pay per capita to the members of the Iowa tribe entitled thereto the said sum in the same manner as provided by the Act of April twenty-first, nineteen hundred and four (Thirty-third Statutes at Large, page two hundred and one).

Vol. 10, p. 1071.

Per capita payment.

Vol. 33, p. 201.

Kickapoos.

KICKAPOOS IN KANSAS. (Treaty.)

Principal to credit of tribe.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Kickapoo Indians in Kansas the sum of sixty-four thousand eight hundred and sixty-five dollars and twenty-eight cents, the balance due them under the second article of the treaty of May eighteenth, eighteen hundred and fifty-four (Tenth Statutes at Large, page one thousand and seventy-eight), and the Secretary of the Interior is authorized to pay per capita to the members of the tribe entitled, the said sum, under such rules and regulations as he may prescribe, in the same manner as provided by the Act of April twenty-first, nineteen hundred and four (Thirty-third Statutes at Large, page two hundred and one).

Vol. 10, p. 1079.

Per capita payment.

Vol. 33, p. 201.

Pottawatomies.

POTTAWATOMIES. (Treaty.)

Annuities.  
Vol. 7, p. 51.

For permanent annuity, in silver, per fourth article of treaty of August third, seventeen hundred and ninety-five, three hundred and fifty-seven dollars and eighty cents;

Vol. 7, p. 114.

For permanent annuity, in silver, per third article of treaty of September thirtieth, eighteen hundred and nine, one hundred and seventy-eight dollars and ninety cents;

Vol. 7, p. 185.

For permanent annuity, in silver, per third article of treaty of October second, eighteen hundred and eighteen, eight hundred and ninety-four dollars and fifty cents;

Vol. 7, p. 317.

For permanent annuity, in money, per second article of treaty of September twentieth, eighteen hundred and twenty-eight, seven hundred and fifteen dollars and sixty cents;

Vol. 7, p. 320.

For permanent annuity, in specie, per second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, and second article of treaty of September twentieth, eighteen hundred and twenty-eight, five thousand seven hundred and twenty-four dollars and seventy-seven cents;

Vol. 7, p. 318.

For permanent provision for payment of money in lieu of tobacco, iron, and steel, per second article of treaty of September twentieth,

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eighteen hundred and twenty-eight; and tenth article of treaties of June fifth and seventeenth, eighteen hundred and forty-six, one hundred and seven dollars and thirty-four cents;

Vol. 9, p. 855.

For permanent provision for three blacksmiths and assistants, and for iron and steel for shops, per third article of treaty of October sixteenth, eighteen hundred and twenty-six; second article of treaty of September twentieth, eighteen hundred and twenty-eight, and second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, one thousand and eight dollars and ninety-nine cents;

Vol. 7, p. 296.

Vol. 7, p. 318.

Vol. 7, p. 321.

For permanent provision for fifty barrels of salt, per second article of treaty of July twenty-ninth, eighteen hundred and twenty-nine, fifty dollars;

Vol. 7, p. 320.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Pottawatomie Indians in Kansas the sum of two hundred and thirty thousand and sixty-four dollars and twenty cents, being the unappropriated balance of the sum of eight hundred and fifty thousand dollars due the Pottawatomie tribe under the provisions of article seven of the treaty of June fifth and seventeenth, eighteen hundred and forty-six (Ninth Statutes at Large, page eight hundred and fifty-three), and the Secretary of the Interior is authorized to pay per capita to the members of the Pottawatomie tribe of Indians in Kansas the said sum, under such rules and regulations as may be prescribed by him and in the same manner as provided by the Act of April twenty-first, nineteen hundred and four (Thirty-third Statutes at Large, page two hundred and one).

Principal to credit of tribe.

Vol. 9, p. 854.

Per capita payment.

Vol. 33, p. 201.

In all, two hundred and thirty-nine thousand one hundred and two dollars and ten cents.

## SACS AND FOXES OF THE MISSOURI. (Treaty.)

Sacs and Foxes of the Missouri.

For interest on one hundred thousand four hundred dollars, at five per centum, under the direction of the President, per second article of treaty of October twenty-first, eighteen hundred and thirty-seven, five thousand and twenty dollars;

Interest.

Vol. 7, p. 541.

For support of a school, per fifth article of treaty of March sixth, eighteen hundred and sixty-one, two hundred dollars;

School.  
Vol. 12, p. 1178.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Sac and Fox Indians of the Missouri the sum of one hundred thousand four hundred dollars, the balance of the amount due the tribe under the second article of the treaty of October twenty-first, eighteen hundred and thirty-seven (Seventh Statutes at Large, page five hundred and forty), and the Secretary of the Interior is authorized and directed to pay per capita to the members of Sac and Fox Indians of the Missouri tribe entitled thereto the said sum in the same manner as provided by the Act of April twenty-first, nineteen hundred and four (Thirty-third Statutes at Large, page two hundred and one).

Principal to credit of tribe.

Vol. 7, p. 541.

Per capita payment.

Rachel Cross is hereby authorized to sell lot four, section twenty-five, township twenty-five north, range three east, in Kansas, subject to the approval of the Secretary of the Interior, for cemetery purposes.

Rachel Cross.  
Sale for cemetery.

## MICHIGAN.

Michigan.

## MOUNT PLEASANT SCHOOL.

For support and education of three hundred Indian pupils at the Indian school, Mount Pleasant, Michigan, fifty thousand four hundred dollars, and for pay of superintendent, one thousand seven hundred dollars;

Mount Pleasant school.

For general repairs and improvements, four thousand dollars;

In all, fifty-six thousand one hundred dollars.



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## Minnesota.

## MINNESOTA.

Leech Lake Agency.  
Agent.

For pay of Indian agent at the Leech Lake Agency, Minnesota, one thousand eight hundred dollars;

White Earth Agency.  
Agent.

For pay of Indian agent at White Earth, one thousand eight hundred dollars;

White Earth Reservation.  
Town site to be set  
apart.

In all, three thousand six hundred dollars.

Appraisal.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, with the consent of the Indians of the White Earth Reservation, in Minnesota, to be obtained in such manner as he may direct, to set apart the southwest quarter of the southwest quarter, the east half of the southwest quarter, and the west half of the southeast quarter of section twenty-three, township one hundred and forty-two north, range forty-one west, fifth principal meridian, on the White Earth Reservation, in the State of Minnesota, for town site, and to cause the lands described to be surveyed and platted into suitable lots, streets, and alleys, and to dedicate said streets and alleys and such lots and parcels as may be necessary to public uses, and to cause the lots to be appraised at their real value, exclusive of improvements thereon or adjacent thereto, by a board of three persons, one of whom shall be the United States Indian agent or superintendent of the White Earth Reservation, one to be appointed by the Secretary of the Interior, and one selected by the White Earth bands of Chippewa Indians, who shall receive such compensation as the Secretary of the Interior shall prescribe, to be paid out of the proceeds of the sale of lots sold under this Act, and when so surveyed, platted, and appraised, the President may issue patents for such lots upon the payment of the appraised value, on such terms as may be approved by the Secretary of the Interior, and the net proceeds of such sales shall be placed to the credit of the said White Earth bands of Chippewa Indians, and those now owning permanent improvements there shall have the preference right for six months from the date such lots shall be offered for sale within which to purchase tracts upon which their improvements are situated, but no lots shall be sold for less than the appraised valuation; but if any person entitled fails to take advantage of this provision, the agent or superintendent of the White Earth Reservation shall appraise the improvements on the unsold lots, and any purchaser, on the payment to the owner of the appraised value of the improvements, shall have the preference right for six months from the date of such payment to purchase such unsold lot or lots at their appraised value on such terms as may be approved by the Secretary of the Interior: *Provided further*, That the patents to be issued shall contain a condition that no malt, spirituous, or vinous liquors shall be kept or disposed of on the premises conveyed, and that any violation of this condition, either by the patentee or any person claiming rights under him, shall render the conveyance void and cause the premises to revert to the White Earth bands of Chippewa Indians, to be held as other tribal lands: *Provided*, That one square of such plat shall be set aside and reserved for a schoolhouse site.

*Proviso.*  
Liquor prohibition.

School site.

## MORRIS SCHOOL.

Morris school.

For the support and education of one hundred and fifty Indian pupils at the Indian school, Morris, Minnesota, twenty-five thousand one hundred and fifty dollars, and for pay of superintendent, one thousand five hundred dollars;

For general repairs and improvements, three thousand dollars;

In all, twenty-nine thousand six hundred and fifty dollars.



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## PIPESTONE SCHOOL.

For support and education of two hundred and twenty-five Indian pupils at the Indian school, Pipestone, Minnesota, thirty-seven thousand nine hundred and seventy-five dollars, and for pay of superintendent, one thousand six hundred dollars;

Pipestone school.

For general repairs and improvements, two thousand five hundred dollars;

For warehouse, four thousand dollars;

In all, forty-six thousand and seventy-five dollars.

## CHIPPEWAS OF THE MISSISSIPPI. (Treaty.)

Chippewas of the Mississippi.

For support of a school or schools upon said reservation, during the pleasure of the President, in accordance with third article of treaty of March nineteenth, eighteen hundred and sixty-seven, four thousand dollars.

Schools.

Vol. 16, p. 720.

## CHIPPEWAS OF MINNESOTA, REIMBURSABLE. (Treaty.)

Chippewas of Minnesota.

Advance interest to the Chippewa Indians in Minnesota, as required by section seven of "An Act for the relief of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, to be expended under the direction of the Secretary of the Interior, in the manner required by said Act (reimbursable), ninety thousand dollars.

Advance interest.  
Vol. 25, p. 645.

That the lands withdrawn by the Secretary of the Interior under the provisions of chapter thirty-five hundred and four, Fifty-ninth Congress, first session, approved June twenty-first, nineteen hundred and six, authorizing a drainage survey of the lands ceded by the Chippewa Indians, shall be subject to entry in the same manner as other lands so ceded, subject to the condition, however, that the entrymen shall be required in addition to the fees and charges now authorized by law, to pay a pro rata charge for the examination and investigation of the swampy and overflowed character of the land, and for the drainage and reclamation thereof.

Entry of drainage lands.  
*Ante*, p. 362.

Payment of charges, etc.

To enable the Commissioner of Indian Affairs, under the direction of the Secretary of the Interior, to carry out an Act entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, namely, the purchase of material and employment of labor for the erection of houses for Indians; for the purchase of agricultural implements, stock and seeds, breaking and fencing land; for payment of expenses of delegations of Chippewa Indians to visit the White Earth Reservation; for the erection and maintenance of day and industrial schools; for subsistence and for pay of employees; for pay of commissioners and their expenses, and for removal of Indians and for their allotments, to be reimbursed to the United States out of the proceeds of sale of their lands, one hundred and fifty thousand dollars.

Civilization, etc.  
Vol. 25, p. 642.

To carry out and complete the survey provided for in the Act of Congress approved June twenty-first, nineteen hundred and six, of the lands ceded by the Chippewa Indians in the State of Minnesota under the Act of Congress entitled "An Act for the relief and civilization of the Chippewa Indians in the State of Minnesota," approved January fourteenth, eighteen hundred and eighty-nine, and an Act entitled "An Act to authorize the sale of a part of what is known as the Red Lake Indian Reservation, in the State of Minnesota," approved February twentieth, nineteen hundred and four, which remain unsold, and are wet, overflowed or swampy in character, with a view of determining what portion thereof may be profitably and economically reclaimed by

Drainage survey, etc., of unsold ceded lands.  
*Ante*, p. 362.

Vol. 25, p. 642.

Vol. 33, p. 48.

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*Proviso.*  
Reimbursement.

Allottees, White  
Earth Reservation.  
Alienation, etc., re-  
strictions removed  
from certain.  
*Act*, p. 353, amend-  
ed.

Annual celebration  
expenses.

Montana.

Agents.

Blackfeet Agency.

Crow Agency.

Flathead Agency.

Flathead Reserva-  
tion.  
Allotment, etc.  
*Proviso.*  
Reimbursement.

Fort Belknap  
Agency.  
Support, etc., of In-  
dians.  
Leasing of lands for  
sugar beets, etc.

Crow Indians.  
Support, etc.

Flathead Agency.  
Support, etc., of In-  
dians.

Fort Peck Agency.  
Support, etc., of In-  
dians.

Incidentals.

Crows.

Fulfilling treaty.  
Vol. 15, p. 652.

drainage, the sum of ten thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of paying for the expense of said survey: *Provided*, That said amount shall be reimbursable from any funds in the Treasury belonging to said Indians and derived from the sale of the lands under said Act. The said survey shall be continued under the direction of the Secretary of the Interior.

That all restrictions as to the sale, incumbrance, or taxation for allotments within the White Earth Reservation in the State of Minnesota, heretofore or hereafter held by adult mixed-blood Indians, are hereby removed, and the trust deeds heretofore or hereafter executed by the Department for such allotments are hereby declared to pass the title in fee simple, or such mixed bloods upon application shall be entitled to receive a patent in fee simple for such allotments; and as to full bloods, said restrictions shall be removed when the Secretary of the Interior is satisfied that said adult full-blood Indians are competent to handle their own affairs, and in such case the Secretary of the Interior shall issue to such Indian allottee a patent in fee simple upon application.

The Secretary of the Interior is hereby authorized to pay to the executive committee of the White Earth band of Chippewa Indians in Minnesota the sum of one thousand dollars, or so much thereof as may be necessary, to be expended in the annual celebration of said band to be held June fourteenth, nineteen hundred and seven, out of the funds belonging to said band.

#### MONTANA.

For pay of Indian agents in Montana at the following-named agencies at the rates respectively indicated, namely:

At the Blackfeet Agency, Montana, one thousand eight hundred dollars.

At the Crow Agency, Montana, one thousand eight hundred dollars.

At the Flathead Agency, Montana, one thousand five hundred dollars.

To enable the Secretary of the Interior to complete the survey, allotment, classification, and appraisal 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.

For support and civilization of the Indians at Fort Belknap Agency, Montana, including pay of employees, twenty thousand dollars.

That the Indians of the Fort Belknap Reservation in Montana may lease their lands, both allotted and tribal, not to exceed twenty thousand acres, for the culture of sugar beets and other crops in rotation, upon such terms, regulations, and conditions as shall be prescribed by the Secretary of the Interior, for a term not exceeding ten years.

For support and civilization of the Crow Indians in Montana, including pay of employees, eight thousand dollars.

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

For support and civilization of the Indians at Fort Peck Agency, Montana, including pay of employees, fifty thousand dollars.

For general incidental expenses of the Indian Service in Montana, including traveling expenses of agents, two thousand five hundred dollars.

#### CROWS. (Treaty.)

For pay of physician, as per tenth article of the treaty of May seventh, eight hundred and sixty-eight, one thousand two hundred dollars;



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For pay of carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of same treaty, three thousand six hundred dollars;

For pay of second blacksmith, as per eighth article of same treaty, one thousand two hundred dollars;

In all, six thousand dollars.

## NORTHERN CHEYENNES AND ARAPAHOES. (Treaty.)

Northern Cheyennes and Arapahoes.  
Subsistence, etc.  
Vol. 19, p. 256.

For subsistence and civilization, as per agreement with the Sioux Indians approved February twenty-eighth, eighteen hundred and seventy-seven, including subsistence and civilization of Northern Cheyennes removed from Pine Ridge Agency to Tongue River, Montana, ninety thousand dollars;

For pay of physician, two teachers, two carpenters, one miller, two farmers, a blacksmith, and engineer, per seventh article of the treaty of May tenth, eighteen hundred and sixty-eight, nine thousand dollars;

In all, ninety-nine thousand dollars.

For an irrigation system on the Tongue River Reservation, in Montana, forty thousand dollars.

Tongue River Reservation.  
Irrigation.

That the Secretary of the Interior is hereby authorized and directed to immediately cause to be surveyed all of the lands embraced within the limits of the Blackfeet Indian Reservation, in the State of Montana.

Blackfeet Reservation.  
Survey directed.

That so soon as all the lands embraced within the said Blackfeet Indian Reservation shall have been surveyed the Commissioner of Indian Affairs shall cause allotments of the same to be made under the provisions of the allotment laws of the United States to all persons having tribal rights or holding tribal relations and who may rightfully belong on said reservation. That there shall be allotted to each member forty acres of irrigable land and two hundred and eighty acres of additional land valuable only for grazing purposes; or, at the option of the allottee, the entire three hundred and twenty acres may be taken in land valuable only for grazing purposes, respectively, and for constructing irrigating systems to irrigate the aforesaid allotted lands, three hundred thousand dollars, one hundred thousand dollars of which shall be immediately available, the cost of said entire work to be reimbursed from the proceeds of the sale of the lands within said reservations: *Provided*, That the Indians, and the settlers on the surplus land, in the order named, shall have a preference right for one year from the date of the President's proclamation opening the reservation to settlement, to appropriate the waters of the reservation which shall be filed on and appropriated under the laws of the State of Montana, by the Commissioner of Indian Affairs on behalf of the Indians taking irrigable allotments and by the settlers under the same law. At the expiration of the one year aforesaid the irrigation system constructed and to be constructed shall be operated under the laws of the State of Montana, and the title to such systems as may be constructed under this Act, until otherwise provided by law, shall be in the Secretary of the Interior in trust for the said Indians, and he may sue and be sued in matters relating thereto: *And provided further*, That the ditches and canals of such irrigation systems may be used, extended, or enlarged for the purpose of conveying water by any person, association, or corporation under and upon compliance with the provisions of the laws of the State of Montana: *And provided further*, That when said irrigation systems are in successful operation the cost of operating the same shall be equitably apportioned upon the lands irrigated, and, when the Indians have become self-supporting, to the annual charge shall be added an amount sufficient to pay back into the Treasury the cost of the work done in their behalf within thirty years, suitable deduction being made for the amounts received from the disposal of the lands within the reservation aforesaid: *Provided*,

Allotments.

Selections.

*Proviso.*  
Preference to water rights.

Operation of irrigation system.

Extension of ditches, etc.

Apportionment of operating expenses.



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Right of water appurtenant to land.	That the right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure and the limit of the right: <i>Provided</i>
Agency, etc., reservations.	<i>further</i> , That the Secretary of the Interior may reserve such lands as he may deem necessary for agency, school, and religious purposes, to remain reserved so long as needed and so long as agency, school, or religious institutions are maintained thereon for the benefit of the Indians, not exceeding two hundred and eighty acres to any one religious society; also such tract or tracts of timber lands as he may deem expedient for the use and benefit of the Indians of said reservation in common; but such reserved lands, or any part thereof, may be disposed of from time to time in such manner as the said Secretary may determine: <i>Provided</i> , That there is hereby granted three hundred and twenty acres each for the Holy Family Mission on Two Medicine Creek to the Bureau of Catholic Indian Missions and also to the mission of the Methodist Episcopal Church near Browning, to be selected by the authorities of said missions, respectively, embracing the mission buildings and improvements thereon.
Missions.	
Appraisal of unallotted lands.	That upon the completion of said allotments the President of the United States shall appoint a commission consisting of three persons to inspect, appraise, and value all of the said lands that shall not have been allotted in severalty to said Indians or reserved by the Secretary of the Interior or otherwise disposed of, said commission to be constituted as follows: One commissioner shall be a person holding tribal relations with said Indians, one representative of the Indian Bureau, and one resident citizen of the State of Montana.
Meeting of commissioners.	That within thirty days after their appointment said commissioners shall meet at some point within the Blackfeet 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 of not to exceed five dollars per day.
Classification, etc., of lands.	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 appraisal said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, grazing land; fourth, timber land; fifth, mineral land, the mineral land not to be appraised.
Compensation.	That said commissioners 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 completed within nine months from the date of the organization of said commission.
Disposal of lands.	That when said commission shall have completed the classification and appraisal of all of said lands and the same shall have been approved by the Secretary of the Interior, the lands 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 except such sections sixteen and thirty-six of each township, or any part thereof, for which the State of Montana has not heretofore received indemnity lands under existing laws, which sections, or parts thereof, 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 State of Montana by reason of allotment thereof to any Indian or Indians, or otherwise, the governor of said State, with the approval of the Secretary of the Interior, is hereby authorized to select other lands not occupied or reserved within said reservation, not exceeding two sections in any one township, which selections shall be made prior to the opening of the lands to settle-
Timber and school lands excepted.	
Selection of school lands in lieu of lands formerly allotted.	



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

*Proviso.*  
Price to be paid Indians.

That the lands so classified and appraised 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, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish wars and the Philippine insurrection, 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, but no entry shall be allowed under section twenty-three hundred and six of the Revised Statutes: *Provided further*, That the price of said lands shall be the appraised value thereof, as fixed by said commission, which in no case shall be less than one dollar and twenty-five cents per acre for agricultural and grazing lands and five dollars per acre for timber lands; 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-fifth of the appraised value in cash at the time of entry and the remainder in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry, and when the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence, and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That he shall make his final proofs in accordance with the homestead laws within seven years from date of entry, and that aliens who have declared their intention to become citizens of the United States may become such entrymen, but before making final proof and receiving patent they must receive their full naturalization papers: *And provided further*, That the fees and commissions at the time of commutation or final entry shall be the same as are now provided by law where the price of land is one dollar and twenty-five cents per acre: *Provided*, That if any entryman fails to make such payments, or any of them, within the time stated, or to make final proof within seven years from date of entry, all rights in and to the land covered by his entry shall at once cease, and any payments theretofore made shall be forfeited and the entry shall be forfeited and canceled: *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.

Opening to settlement.

*Provisions.*  
Rights of soldiers and sailors unimpaired.  
R. S., secs. 2304, 2305, p. 422.

Fractional entries.  
R. S., sec. 2306, p. 422  
Payments.

Final proofs.

Aliens.

Fees.

Forfeiture for non-payment, etc.

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

Lands withdrawn for irrigation projects.  
Vol. 32, p. 383.

That if, after the approval of the classification and appraisal, as provided herein, there shall be found lands within the limits of the reservation under irrigation projects deemed practicable under the provisions of the Act of Congress approved June seventeenth, nineteen hundred and two, known as the reclamation Act, said lands shall be subject to withdrawal and be disposed of under the provisions of said Act, and settlers shall pay, in addition to the cost of construction and maintenance provided therein, the appraised value, as provided in this Act, to the proper officers, to be covered into the Treasury of the United States to the credit of the Indians: *Provided, however*, That all lands hereby opened to settlement remaining undisposed of at the end

*Provisions.*  
Sale of undisposed of lands.



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of five years from the taking effect of this Act shall be sold to the highest bidder for cash, at not less than one dollar and twenty-five cents per acre, under rules and regulations prescribed by the Secretary of the Interior; and any lands remaining unsold ten years after said lands shall have been opened to entry shall be sold to the highest bidder, for cash, without regard to the minimum limit above stated: *Provided*, That not more than six hundred and forty acres of land shall be sold to any one person or company.

**Maximum sale to one person.** That the lands within said reservation not already previously entered, whether classified as agricultural, grazing, timber, or mineral lands, shall be subject to exploration, location, and purchase under the general provisions of the United States mineral and coal land laws, at the prices therein fixed, except that no mineral or coal exploration, location, or purchase shall be permitted upon any lands allotted to an Indian.

**Location, etc., of mineral lands.** That lands classified and returned 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 at not less than five dollars per acre, under such rules and regulations as he may prescribe: *Provided*, That the said timber lands shall be sold in tracts not exceeding forty acres, with preference right of purchase to actual settlers, including Indian allottees residing in the vicinity, at the highest price bid.

**Sale of timber lands.** That after deducting the expenses of the commission of classification, appraisement, and sale of lands, and such other incidental expenses as shall have been necessarily incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands in conformity with this Act shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe. Not exceeding one-third of the total amount thus deposited in the Treasury, together with one-third of the amount of the principal of all other funds now placed to the credit of or which is due said tribe of Indians from all sources, shall be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians, in the construction and maintenance of irrigation ditches, the purchase of stock cattle, horses, and farming implements, and in their education and civilization. The remainder of all funds deposited in the Treasury, realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall, upon the date of the approval by the Secretary of the Interior of the allotments of land authorized by this Act, be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by said Secretary; the funds thus allotted and apportioned shall be placed to the credit of such individuals upon the books of the United States Treasury for the benefit of such allottees, their legatees, or heirs. The President may, by Executive order, from time to time order the distribution and payment of such funds or the interest accruing therefrom to such individual members of the tribe as in his judgment would be for the best interests of such individuals to have such distribution made, under such rules and regulations as he may prescribe therefor: *Provided*, That so long as the United States shall hold the funds as trustee for any member of the tribe the Indian beneficiary shall be paid interest thereon annually at the rate of four per centum per annum.

**Proviso. Maximum tracts.** That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of sixty-five 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 and school purposes, at the rate of one dollar and twenty-five cents per acre; also the sum of seventy-five thousand dollars, or so much

**Disposal of net proceeds.**

**Disposal of all funds.**

**Distribution.**

**Interest on trust fund.**

**Payment for lands reserved.**



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thereof as may be necessary, to enable the Secretary of the Interior to survey, classify, and appraise the lands of said reservation as provided herein, and also to defray the expense of the appraisement and survey of said town sites, the latter sums to be reimbursable out of the funds arising from the sale of said lands.

That nothing in this Act contained shall in any manner bind the United States to purchase any part of the land herein described, except sections sixteen and thirty-six, or the equivalent in each township that may be granted to the State of Montana, the reserved tracts hereinbefore mentioned for agency and school purposes, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any part 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.

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 eighty acres of said land at or near the present settlements of Browning and Babb, and each of 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 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: *Provided, however*, 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.

## NEBRASKA.

## GENOA SCHOOL.

For support and education of three hundred Indian pupils at the Indian school, Genoa, Nebraska, fifty thousand four hundred dollars, and for pay of superintendent, one thousand seven hundred dollars; For general repairs and improvements, six thousand dollars; In all, fifty-eight thousand one hundred dollars.

Liability of United States limited.

Town sites.

Survey, etc.  
R. S., 2381, p. 436.*Provides*.  
Entries by actual residents.

Proofs required.

Report of appraisal, etc.

Minimum price.  
Lots.

Nebraska.

Genoa school.

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Winnebagoes.

## WINNEBAGOES. (Treaty.)

Support, etc.  
Vol. 7, p. 645.

For interest on eight hundred and four thousand nine hundred and nine dollars and seventeen cents, at five per centum per annum, per fourth article of treaty of November first, eighteen hundred and thirty-seven, forty thousand two hundred and forty-five dollars and forty-five cents; and the Secretary of the Interior is hereby directed to expend said interest for the support, education, and civilization of said Indians, to be expended in such manner and to whatever extent that he may judge to be necessary and expedient for their welfare and best interest;

Civilization, etc.

For interest on seventy-eight thousand three hundred and forty dollars and forty-one cents, at five per centum per annum, to be expended under the direction of the Secretary of the Interior for the erection of houses, improvement of their allotments of land, purchase of stock, agricultural implements, seeds, and other beneficial objects, three thousand nine hundred and seventeen dollars and two cents;

In all, forty-four thousand one hundred and sixty-two dollars and forty-seven cents.

Nevada.

## NEVADA.

Western Shoshone  
Agency, Support, etc., of  
Indians.

For support and civilization of the Indians of the Western Shoshone Agency, Nevada, including pay of employees, eight thousand dollars.

## CARSON SCHOOL.

Carson school.

For support and education of three hundred Indian pupils at the Indian school at Carson City, Nevada, fifty thousand three hundred dollars, and for pay of superintendent, one thousand eight hundred dollars;

For general repairs and improvements, five thousand dollars;

For boys' dormitory, twenty-five thousand dollars;

For land and water right, six thousand dollars;

In all, eighty-eight thousand one hundred dollars.

Incidentals.

For general incidental expenses of the Indian Service in Nevada, including traveling expenses of agents, and support and civilization of Indians located on the Piute, Walker River, and Pyramid Lake reservations, five thousand dollars;

And pay of employees, including physician at the Walker River Reservation, four thousand dollars;

In all, nine thousand dollars.

New Mexico.

NEW MEXICO. (See Arizona for "Support and civilization of the Apache, etc.," in Arizona and New Mexico.)

## ALBUQUERQUE SCHOOL.

Albuquerque school.

For support and education of three hundred Indian pupils at the Indian school at Albuquerque, New Mexico, fifty thousand three hundred dollars, and for pay of superintendent, one thousand eight hundred dollars;

General repairs and improvements, five thousand dollars;

For cottage for superintendent, two thousand five hundred dollars;

For office building, two thousand five hundred dollars;

In all, sixty-two thousand one hundred dollars.

## SANTA FE SCHOOL.

Santa Fe school.

For support and education of three hundred Indian pupils at the Indian school at Santa Fe, New Mexico, fifty thousand three hundred



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dollars, and for pay of superintendent, one thousand eight hundred dollars;

For general repairs and improvements, five thousand dollars;

For water supply, one thousand five hundred dollars;

For office building, three thousand dollars;

In all, sixty-one thousand six hundred dollars.

For pay of one special attorney for the Pueblo Indians of New Mexico, one thousand five hundred dollars; Attorney, Pueblo Indians.

And for necessary traveling and incidental expenses of said attorney, five hundred dollars;

In all, two thousand dollars.

For general incidental expenses of the Indian Service in New Mexico, including traveling expenses of agents, one thousand dollars. Incidentals.

For the completion of the Zuni dam and irrigation project in New Mexico, thirty thousand dollars. Zuni dam.

## NEW YORK.

New York.

For pay of Indian agent at the New York Agency, New York, one thousand dollars. New York Agency. Agent.

For pay of physician, New York Agency, six hundred dollars. Physician.

## SENECAS OF NEW YORK. (Treaty.)

Senecas.

For permanent annuity, in lieu of interest on stock, per Act of February nineteenth, eighteen hundred and thirty-one, six thousand dollars; Annuity. Vol. 4, p. 442.

For interest, in lieu of investment, on seventy-five thousand dollars, at five per centum, per Act of June twenty-seventh, eighteen hundred and forty-six, three thousand seven hundred and fifty dollars; Interest. Vol. 9, p. 85.

For interest, at five per centum, on forty-three thousand and fifty dollars transferred from the Ontario Bank to the United States Treasury, per Act of June twenty-seventh, eighteen hundred and forty-six, two thousand one hundred and fifty-two dollars and fifty cents;

In all, eleven thousand nine hundred and two dollars and fifty cents.

## SIX NATIONS OF NEW YORK. (Treaty.)

Six Nations.

For permanent annuity, in clothing and other useful articles, per sixth article of treaty of November eleventh, seventeen hundred and ninety-four, four thousand five hundred dollars. Annuity. Vol. 7, p. 46.

## NORTH CAROLINA.

North Carolina.

## CHEROKEE SCHOOL.

Cherokee school.

For support and education of one hundred and sixty pupils at the Indian school at Cherokee, North Carolina, twenty-six thousand eight hundred and twenty dollars, and for pay of superintendent, one thousand five hundred dollars;

For general repairs and improvements, one thousand five hundred dollars;

For boys' dormitory, fifteen thousand dollars;

In all, forty-four thousand eight hundred and twenty dollars.

## NORTH DAKOTA.

North Dakota.

For pay of Indian agent at the Standing Rock Agency, North Dakota, one thousand eight hundred dollars. Agent, Standing Rock Agency.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to cause an additional allotment of not less than two and one-half acres or more than ten acres of timber land to be made Standing Rock Sioux. Additional timber allotment.

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Vol. 25, pp. 97, 800. to each member of the Standing Rock Band of Sioux Indians, to whom allotment is made under the Act of March second, eighteen hundred and eighty-nine, entitled "An Act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes:" *Provided*, That this Act shall benefit those members only who are alive and in being at the close of the work of allotting said Indians under said Act of March second, eighteen hundred and eighty-nine, and said additional allotments shall be subject to the provisions of the said Act of March second, eighteen hundred and eighty-nine, and the amendments thereto.

*Proviso.*  
Restricted to living members. For support and civilization of Sioux of Devils Lake, North Dakota, five thousand dollars.

Devils Lake Sioux.  
Support, etc. That article three of the Act approved April twenty-seventh, nineteen hundred and four (Thirty-third Statutes at Large, page three hundred and twenty-one), modifying and ratifying the agreement with the Indians of Devils Lake Reservation in North Dakota is hereby so far modified as to permit the payment of the annual installments provided for in said article to be made in the month of April of each year, instead of in June.

Installments to be paid in April.  
Vol. 33, p. 321. For support and civilization of Indians at Fort Berthold Agency, in North Dakota, including pay of employees, twenty thousand dollars.

Fort Berthold Agency.  
Support, etc. That the Secretary of the Interior be, and he is hereby, authorized to cause an allotment of eighty acres to be made from the lands of the Fort Berthold Reservation, including the lands to be restored, to each member of the several tribes belonging on and occupying said reservation, now living and to whom no allotment has heretofore been made; and where any allotment of less than eighty acres has heretofore been made, the allottee, if now living, shall be allowed to take an additional allotment, which with the land already allotted shall not exceed eighty acres.

Turtle Mountain Band, Chippewas.  
Support, etc. For support and civilization of Turtle Mountain Band of Chippewas, North Dakota, including seeds, thirteen thousand dollars.

## FORT TOTTEN SCHOOL.

Fort Totten school. For support and education of three hundred and twenty-five Indian pupils at the Indian school, Fort Totten, North Dakota, fifty-four thousand five hundred and seventy-five dollars, and for pay of superintendent, one thousand seven hundred dollars;

For general repairs and improvements, five thousand dollars;

In all, sixty-one thousand two hundred and seventy-five dollars.

## WAHPETON SCHOOL.

Wahpeton school. For the support and education of one hundred Indian pupils at the Indian school at Wahpeton, North Dakota, sixteen thousand eight hundred dollars, and for pay of superintendent, one thousand five hundred dollars;

For general repairs and improvements, two thousand dollars;

For sinking and constructing a well and necessary machinery or apparatus for supplying said school with water therefrom, fifteen thousand dollars, or so much thereof as may be necessary, said sum to be immediately available;

In all, thirty-five thousand three hundred dollars.

Incidentals. For general incidental expenses of the Indian Service in North Dakota, including traveling expenses of agents at three agencies, one thousand dollars.



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## OKLAHOMA.

Oklahoma.

For pay of Indian agents in Oklahoma at the following named agencies at the rates respectively indicated, namely:

Agents.

At the Kiowa Agency, Oklahoma, one thousand eight hundred dollars.

Kiowa Agency.

That the Act of June fifth, nineteen hundred and six, entitled "An Act to open for settlement five hundred and five thousand acres of land in the Kiowa, Comanche, and Apache Indian Reservation, in Oklahoma," be, and the same is hereby, amended so as to permit the allotment to those children of enrolled members of the Kiowa, Comanche, and Apache tribes who were not allotted under the provisions of said Act because they were not of known Indian parentage: *Provided, however,* That the total number of allotments made hereunder shall not exceed twenty-five.

Kiowa, etc., reservation.  
Allotment to certain children.  
*Act, p. 214.*

*Proviso.*  
Number restricted.

At the Osage Agency, Oklahoma, one thousand eight hundred dollars.

Osage Agency.

For support and civilization of the Apaches, Kiowas, Comanches, Wichitas, and affiliated bands who have been collected in the reservations set apart for their use and occupation, twenty-five thousand dollars.

Apaches, etc.  
Support, etc.

For support and civilization of the Arapahoes and Cheyennes who have been collected on the reservations set apart for their use and occupation, thirty-five thousand dollars.

Arapahoes and Cheyennes.  
Support, etc.

For support and civilization of the Kansas Indians, Oklahoma, including agricultural assistance and pay of employees, one thousand five hundred dollars.

Kansas Indians.  
Support, etc.

For support and civilization of the Kickapoo Indians in Oklahoma, two thousand dollars.

Kickapoos.  
Support, etc.

For support and civilization of the Ponca Indians, including pay of employees, nine thousand dollars.

Poncas.  
Support, etc.

## CHILOCCO SCHOOL.

For support and education of seven hundred Indian pupils at the Indian school at Chilocco, Oklahoma, one hundred and sixteen thousand four hundred dollars, and for pay of superintendent, two thousand five hundred dollars;

Chilocco school.

For general repairs and improvements, ten thousand dollars;

For water system, fifteen thousand dollars;

In all, one hundred and forty-three thousand nine hundred dollars.

## OSAGES. (Treaty.)

Osages.

That the Secretary of the Treasury is hereby authorized and directed to place upon the books of the Treasury to the credit of the Osage tribe of Indians in Oklahoma the sum of sixty-nine thousand one hundred and twenty dollars, the amount due the tribe under the sixth article of the treaty of June second, eighteen hundred and twenty-five (Seventh Statutes at Large, page one hundred and fifty-three), being the value of fifty-four sections of land set apart by said treaty for educational purposes, per Senate resolution of January ninth, eighteen hundred and thirty-eight, and said sum shall be distributed to the members of said tribe of Osage Indians in Oklahoma entitled thereto equitably per capita, and paid in the same manner as provided by the Act of April twenty-first, nineteen hundred and four, Thirty-third Statutes at Large, page two hundred and one, it being the purpose of this provision to close said account and distribute said funds.

Principal sum to credit of tribe.

Vol. 7, p. 242.

Per capita distribution.  
Vol. 33, p. 201.



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Pawnees.	PAWNEES. (Treaty.)
Annuity. Vol. 11, p. 729.	For perpetual annuity, which is to be paid in cash to them, per second article of treaty of September twenty-fourth, eighteen hundred and fifty-seven, and agreement of November twenty-third, eighteen hundred and ninety-two, article three, thirty thousand dollars;
Schools. Vol. 11, p. 780.	For support of two manual-labor schools, per third article of same treaty, of September twenty-fourth, eighteen hundred and fifty-seven, ten thousand dollars;
Farmor, etc. Vol. 11, p. 730.	For pay of one farmer, two blacksmiths, one miller, one engineer and apprentices, and two teachers, as per fourth article of same treaty, five thousand four hundred dollars;
Physician, etc.	For pay of physician and purchase of medicines, one thousand two hundred dollars;
Iron, steel, etc.	For purchase of iron and steel and other necessities for the shops, as per fourth article of treaty of September twenty-fourth, eighteen hundred and fifty-seven, five hundred dollars;
Pawnee. Lands granted for public purposes.	In all, forty-seven thousand one hundred dollars. That there is hereby granted to the town of Pawnee, in Pawnee County, Oklahoma Territory, for park, educational, and other public purposes, all of that part of section thirty-two, in township twenty-two north, range five east, Indian meridian, in said county, described as follows, to wit: Commencing at the northwest corner of the northeast quarter of the northwest quarter of section thirty-two, in township twenty-two north, range five east, Indian meridian, in said county; thence running due east on the north line of said section thirty-two forty-four one-hundredths chain, more or less, to the west boundary line of the Morris road; thence in a southwesterly direction along the west boundary line of said Morris road sixteen and twenty-five one-hundredths chains; thence west parallel with the north line of said section seven chains to a point; thence in a southwesterly direction parallel with the west line of said Morris road and seven chains distant therefrom to a point in the center of the main channel of Black Bear Creek; thence in a southwesterly direction following the center of the channel of said creek to the dividing line between the northeast quarter of the southwest quarter and the northwest quarter of the southwest quarter of said section; thence north on said dividing line extended to the north line of said section, the same being the place of beginning; and the said lands hereby granted being a portion of the Pawnee Indian Reservation set apart for agency and school purposes at the Pawnee Agency in said county under Act of Congress approved February eighth, eighteen hundred and eighty-seven, as amended by Act of Congress approved February twenty-eighth, eighteen hundred and ninety-one, and in accordance with the instructions from the Acting Commissioner of Indian Affairs dated March seventeenth, eighteen hundred and ninety-one, the said lands hereby granted to said town of Pawnee being subject to the rights of way of the Eastern Oklahoma Railway Company and the Arkansas Valley and Western Railway Company heretofore acquired.
Description.	
Vol. 24, p. 388.	
Vol. 26, p. 794.	
Subject to rights of way.	
Use by town.	That the said lands are to be held and used by the said town of Pawnee for park, educational, and other public purposes: <i>Provided</i> , That the board of trustees of said town may authorize the board of education of said town to use the same for the erection and maintenance of school buildings thereon and the necessary grounds for use in connection therewith: <i>Provided further</i> , That Pawnee Indian children shall be admitted to any school thus maintained, free of charge and on terms of equality with the white pupils in such school: <i>Provided further</i> , That said city shall pay one dollar and twenty-five cents per acre for said land.
<i>Proviso.</i> School buildings sites.	
Pawnee children.	
Price per acre.	

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## SACS AND FOXES OF THE MISSISSIPPI. (Treaty.)

Sacs and Foxes of  
the Mississippi.

For permanent annuity, in goods or otherwise, per third article of treaty of November third, eighteen hundred and four, one thousand dollars;

Annuity.  
Vol. 7, p. 85.

For interest on two hundred thousand dollars, at five per centum, per second article of treaty of October twenty-first, eighteen hundred and thirty-seven, ten thousand dollars;

Interest.  
Vol. 7, p. 541.

For interest on eight hundred thousand dollars, at five per centum, per second article of treaty of October eleventh, eighteen hundred and forty-two, forty thousand dollars: *Provided*, That the sum one thousand five hundred dollars of this amount shall be used for the pay of a physician and for purchase of medicine;

*Proviso.*  
Physician, etc.

In all, fifty-one thousand dollars.

## OREGON.

Oregon.

For support and civilization of the Klamaths, Modocs, and other Indians of the Klamath Agency, Oregon, including pay of employees, eight thousand dollars.

Klamath Agency.  
Support, etc., of  
Indians.

For support and civilization of the confederated tribes and bands under Warm Springs Agency, and for pay of employees, four thousand dollars.

Warm Springs  
Agency.  
Support, etc., of  
Indians.

For support and civilization of the Walla Walla, Cayuse, and Umatilla tribes, Oregon, including pay of employees, three thousand dollars.

Walla Walla, etc.  
Support, etc.

## SALEM SCHOOL.

For support and education of six hundred Indian pupils at the Indian school, Salem, Oregon, one hundred thousand seven hundred dollars, and for pay of superintendent, two thousand dollars;

Salem school.

For general repairs and improvements, six thousand dollars;

For boiler, smokestack, and extension to power house, six thousand dollars;

For additional amount for hospital, five thousand dollars;

In all, one hundred and nineteen thousand seven hundred dollars.

For general incidental expenses of the Indian Service in Oregon, including traveling expenses of agents, and support and civilization of Indians of Grande Ronde and Siletz agencies, three thousand dollars;

Incidental expenses.

Pay of employees at the same agencies, three thousand dollars;

In all, six thousand dollars.

That the Secretary of the Interior be, and he is hereby, authorized to purchase from Karl A. Torgerson and Charles E. Heyn eighty acres of land, more or less, now occupied by John Smith and Jane Isaac, allottees of the Grande Ronde Indian Reservation in Oregon, and to pay for said lands the sum of six hundred and fifty dollars, and to use for this purpose one hundred and thirty-two dollars and sixty-seven cents of the funds now in the Treasury belonging to the Grande Ronde Indians and derived from the sale of their surplus unallotted lands, and the further sum of five hundred and fifty dollars, or so much thereof as may be necessary, which is hereby appropriated out of any money in the Treasury not otherwise appropriated: *Provided*, That the lands so purchased shall be patented to the said John Smith and Jane Isaac as a part of their respective allotments.

John Smith and  
Jane Isaac.  
Purchase of land for.*Proviso.*  
Patents.

## MOLELS. (Treaty.)

Molels.

For pay of teachers and for manual-labor schools, and for all necessary materials therefor, and for the subsistence of the pupils, per second article of treaty of December twenty-first, eighteen hundred and fifty-five, three thousand dollars.

Schools.  
Vol. 12, p. 981.



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Pennsylvania.

## PENNSYLVANIA.

Carlisle school.

For support and education at Indian school at Carlisle, Pennsylvania, for transportation of pupils to and from said school, and for general repairs and improvements, one hundred and sixty-three thousand dollars;

For additional salary for superintendent in charge, one thousand dollars;

For employees' quarters, five thousand dollars;

In all, one hundred and sixty-nine thousand dollars.

South Dakota.

## SOUTH DAKOTA.

Agents at agencies.

For pay of Indian agents in South Dakota at the following-named agencies at the rates respectively indicated, namely:

Cheyenne.

At the Cheyenne River Agency, one thousand eight hundred dollars;

Crow Creek.

At the Crow Creek Agency, one thousand six hundred dollars;

Lower Brulé.

At the Lower Brulé Agency, one thousand four hundred dollars;

Pine Ridge.

At the Pine Ridge Agency, one thousand eight hundred dollars;

Rosebud.

At the Rosebud Agency, one thousand eight hundred dollars;

Sisseton.

At the Sisseton Agency, one thousand five hundred dollars;

Yankton.

At the Yankton Agency, one thousand six hundred dollars;

In all, eleven thousand five hundred dollars.

Buildings, etc.

For buildings and repairs of buildings at agencies and for water supply at agencies, ten thousand dollars.

## CHAMBERLAIN SCHOOL.

Chamberlain school.

For the support and education of two hundred Indian pupils at the Indian school at Chamberlain, South Dakota, thirty-three thousand four hundred dollars, and for pay of superintendent, one thousand six hundred dollars;

For general repairs and improvements, two thousand five hundred dollars;

For office building and enlarging boys' dormitory, seven thousand dollars;

In all, forty-four thousand five hundred dollars.

## FLANDREAU SCHOOL.

Flandreau school.

For support and education of three hundred and seventy-five Indian pupils at the Indian school at Flandreau, South Dakota, sixty-two thousand eight hundred and twenty-five dollars, and for pay of superintendent, one thousand eight hundred dollars;

For general repairs and improvements, including completion of industrial and domestic building and veneering old building, eight thousand dollars, of which three thousand dollars shall be immediately available;

In all, seventy-two thousand six hundred and twenty-five dollars.

## PIERRE SCHOOL.

Pierre school.

For support and education of one hundred and fifty Indian pupils at the Indian school at Pierre, South Dakota, twenty-five thousand one hundred and fifty dollars, and for pay of superintendent, one thousand five hundred dollars;

For office building, warehouse, and enlarging workshop, seven thousand dollars;

For rebuilding and repairing boiler house and installing and equipping heating and lighting plant, four thousand dollars, to be immediately available;



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For completing irrigation plant, five thousand dollars;  
 For general repairs and improvements, five thousand dollars;  
 In all, forty-seven thousand six hundred and fifty dollars.

## RAPID CITY SCHOOL.

For support and education of two hundred and fifty Indian pupils at the Indian school, Rapid City, South Dakota, forty-two thousand one hundred and fifty dollars, and for pay of superintendent, one thousand six hundred dollars;

Rapid City school.

For general repairs and improvements, three thousand dollars;

For employees' quarters, three thousand dollars;

In all, forty-nine thousand seven hundred and fifty dollars.

For general incidental expenses of the Indian Service in South Dakota, including traveling expenses of agents at seven agencies, three thousand dollars.

Incidentals.

That any adult allottee in the Standing Rock Indian Reservation, in South Dakota, to whom a trust or other patent containing restrictions upon alienation has been or shall hereafter be issued for an allotment along the right of way of the Chicago, Milwaukee and Saint Paul Railway Company, or the Chicago, Milwaukee and Saint Paul Railway Company of South Dakota, in said reservation, may, with the consent of the Secretary of the Interior, and not otherwise, and under such regulations as he may prescribe, sell and convey to either of said companies, for railroad purposes, all or any part of his allotment. The lands along said right of way allotted to any minor may, in like manner, be sold to either of said companies by the Indian agent or other officer in charge of the reservation, acting for and on behalf of such minor.

Standing Rock Reservation.  
 Sales by allottees to Chicago, Milwaukee and St. Paul Railway Company authorized.

And any deed executed hereunder, when approved by the Secretary of the Interior, shall convey title as fully as if a fee-simple patent had issued for the lands covered thereby, but without such approval shall be absolutely null and void.

Fee simple title.

The money received from the sale to said companies of lands allotted to a minor may be paid, in the discretion and under the direction of the Commissioner of Indian Affairs, to the parent or other person having custody of such minor, for his support and education. Any such money not needed for such minor's support and education shall, when so directed by the Commissioner of Indian Affairs, be deposited in the United States Treasury to the credit of such minor and paid to him when he attains his majority, or, in case of his death, to his heirs, the money thus deposited to draw interest at the rate of three per centum per annum.

Disposal of proceeds.

That the Secretary of the Treasury be, and he is hereby, authorized to pay to Jane E. Waldron, for judgment obtained in the United States circuit court for the district of South Dakota in the case entitled "Jane E. Waldron against Black Tomahawk and Ira Hatch, agent of the Cheyenne River Agency," and to reimburse her for expenses incurred in said case, three thousand eight hundred and sixty dollars and thirty-nine cents: *Provided*, That before said amount is paid the said Jane E. Waldron shall satisfy said judgment, and shall also file a receipt in full of all claims.

Jane E. Waldron.  
 Payment of judgment to.

*Provided*,  
 Receipt, etc.

SIoux OF DIFFERENT TRIBES, INCLUDING SANTEE SIOUX OF NEBRASKA.  
 (Treaty.)

Sioux of different tribes.

For pay of five teachers, one physician, one carpenter, one miller, one engineer, two farmers, and one blacksmith, per thirteenth article of treaty of April twenty-ninth, eighteen hundred and sixty-eight, ten thousand four hundred dollars;

Teachers, etc.  
 Vol. 15, p. 640.

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	For pay of second blacksmith, and furnishing iron, steel, and other material, per eighth article of same treaty, one thousand six hundred dollars;
Employees.	For pay of additional employees at the several agencies for the Sioux in Nebraska and Dakota, eighty-five thousand dollars;
Subsistence, etc. Vol. 19, p. 236.	For subsistence of the Sioux, and for purposes of their civilization, as per agreement ratified by Act of Congress approved February twenty-eighth, eighteen hundred and seventy-seven, five hundred thousand dollars: <i>Provided</i> , That this sum shall include transportation of supplies from the termination of railroad or steamboat transportation, and in this service Indians shall be employed whenever practicable: <i>And provided further</i> , That the number of rations issued shall not exceed the number of Indians on each reservation, and any excess in the number of rations issued shall be disallowed in the settlement of the agent's account: <i>Provided further</i> , That the unexpended balance for the fiscal year nineteen hundred and six is hereby appropriated and made available for nineteen hundred and seven;
<i>Proviso</i> . Transportation.	
Rations.	
Balance available.	
Schools. Vol. 16, p. 637.	For support and maintenance of day and industrial schools, including erection and repairs of school buildings, in accordance with article seven of the treaty of April twenty-ninth, eighteen hundred and sixty-eight, which article is continued in force for twenty years by section seventeen of the Act of March second, eighteen hundred and eighty-nine, two hundred thousand dollars;
Vol. 25, p. 894.	In all, seven hundred and ninety-seven thousand dollars.
Sioux, Yankton tribe.	SIoux, YANKTON TRIBE. (Treaty.)
Fulfilling treaty. Vol. 11, p. 744.	For nineteenth of twenty installments (last series), to be paid to them or expended for their benefit, per fourth article of treaty of April nineteenth, eighteen hundred and fifty-eight, fifteen thousand dollars;
Subsistence, etc. Vol. 19, p. 237.	For subsistence and civilization of Yankton Sioux, heretofore provided for in appropriations under "Fulfilling treaty with Sioux of different tribes," and so forth, twenty thousand dollars;
Canton. Expenses of insane asylum.	In all, thirty-five thousand dollars. For the equipment and maintenance of the asylum for insane Indians at Canton, South Dakota, for incidental and all other expenses necessary for its proper conduct and management, including pay of employees, and for necessary expense of transporting insane Indians to and from said asylum, twenty-five thousand dollars.
Laundry.	For erecting laundry building and equipment thereof at Canton, South Dakota, Indian Insane Asylum, six thousand dollars, to be immediately available.
Pine Ridge Reservation. Surveys.	For clerical work and stationery in the office of the United States surveyor-general required on surveys within the Pine Ridge Reservation, South Dakota, five hundred dollars. To enable the Commissioner of Indian Affairs to complete the payment for surveying the Pine Ridge Reservation, South Dakota, one thousand eight hundred and eighty-eight dollars and ten cents, to be immediately available.
Allotments in Sioux Reservation. Vol. 25, p. 688.	To enable the President to cause, under the provisions of the Act of March second, eighteen hundred and eighty-nine, entitled "An Act to divide a portion of the reservation of the Sioux Nation of Indians in Dakota into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," to be allotted the lands in said separate reservations as provided in said Act, including the necessary resurveys, fifteen thousand dollars: <i>Provided</i> , That hereafter the President shall cause allotments to be made under the provisions of said Act to any living children of Indians affected thereby who have not heretofore been allotted:
<i>Proviso</i> . Allotments to children.	



## FIFTY-NINTH CONGRESS. SESS. II. CH. 2285. 1907.

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*Provided*, That the tribe to which said Indian children belong is possessed of any unallotted, tribal, or reservation lands.

Condition.

That the Secretary of the Interior be, and he is hereby, authorized to cause an allotment of three hundred and twenty acres of land to be made to each woman belonging on the Pine Ridge Reservation or Cheyenne River Reservation in South Dakota, or on the Standing Rock Reservation in North Dakota and South Dakota, now living, and who is not entitled to and has not received an allotment under existing law, by reason of her having been a married woman at the date of the order of the President authorizing allotments on the reservation to which she belongs: *Provided*, That the allotments as made hereunder shall be subject to the provisions of the Act of March second, eighteen hundred and eighty-nine, entitled "An Act to divide a portion of the reservation of the Sioux Nation in Dakota into separate reservations, and to secure the relinquishment of the Indian title to the remainder, and for other purposes," and the amendments thereto.

Allotment to certain married women.

*Proviso.*  
Conditions.  
Vol. 25, p. 888.

## UTAH.

Utah.

For pay of Indian agent at the Uintah and Ouray Agency, Utah (consolidated), one thousand eight hundred dollars.

Uintah and Ouray  
agency.  
Agent.

## SOUTHERN UTAH SCHOOL.

For support and education of seventy-five pupils at the Panguitch Indian school in southern Utah, twelve thousand five hundred and twenty-five dollars, and for pay of superintendent, one thousand two hundred dollars;

Panguitch school.

General repairs and improvements, five thousand dollars;

In all, eighteen thousand seven hundred and twenty-five dollars.

For general incidental expenses of the Indian Service in Utah, including traveling expenses of agents, one thousand dollars.

Incidentals.

For constructing irrigation system, to irrigate the allotted lands of the Uncompahgre, Uintah, and White River Utes in Utah, as provided by the Act of June twenty-first, nineteen hundred and six, one hundred and fifty thousand dollars.

Irrigation, Uintah  
Reservation.  
*Ante*, p. 375.

## CONFEDERATED BANDS OF UTES. (Treaty.)

Utes, confederated bands.

For pay of two carpenters, two millers, two farmers, and two blacksmiths, as per tenth article of treaty of October seventh, eighteen hundred and sixty-three, and fifteenth article of treaty of March second, eighteen hundred and sixty-eight, six thousand seven hundred and twenty dollars;

Carpenters, etc.  
Vol. 13, p. 675.  
Vol. 15, p. 622.

For pay of two teachers, as per same article of same treaty, one thousand eight hundred dollars;

For purchase of iron and steel and the necessary tools for blacksmith shop, per ninth article of same treaty, two hundred and twenty dollars;

For annual amount for the purchase of beef, mutton, wheat, flour, beans, and potatoes, or other necessary articles of food, as per twelfth article of same treaty, thirty thousand dollars;

Food.  
Vol. 15, p. 622.

For pay of employees at the several Ute agencies, fifteen thousand dollars;

Employees.

In all, fifty-three thousand seven hundred and forty dollars.

That the sum of five thousand dollars, for the purchase of lands and sheep for the San Juan Piute Indians, and ten thousand five hundred dollars, for the support and civilization of the Kaibab Indians in Utah, and so forth, appropriated in the Indian Act for the fiscal year nineteen hundred and seven, are hereby reappropriated and made available for the use of the Piute Indians in Southern Utah and Northern Arizona.

Piutes, Utah and  
Arizona.  
Amount available.

*Ante*, p. 376.



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## Virginia.

## VIRGINIA.

Hampton school. For the support and education of one hundred and twenty Indian pupils at the school at Hampton, Virginia, twenty thousand and forty dollars.

## Washington.

## WASHINGTON.

Colville Agency. Agent. For pay of Indian agent at the Colville Agency, Washington, one thousand five hundred dollars;

D'Wamish, etc., Indians. Support, etc. For support and civilization of the D'Wamish and other allied tribes in Washington, including pay of employees, seven thousand dollars;

Tulalip Reservation. Sawmill. For rebuilding and repairing the sawmill on the Tulalip Indian Reservation, two thousand dollars.

Makahs. Support, etc. For support and civilization of the Makahs, Washington, including pay of employees, two thousand dollars;

Qui-nai-elts and Quil-leh-utes. Support, etc. For support and civilization of the Qui-nai-elts and Quil-leh-utes, including pay of employees, one thousand dollars;

Yakimas, etc. Support, etc. For support and civilization of Yakimas, and other Indians at said agency, including pay of employees, five thousand dollars;

Telephone. For the construction of a telephone line on the Yakima Reservation, four thousand dollars, or so much thereof as may be necessary;

Incidentals. For general incidental expenses of the Indian Service in Washington, including traveling expenses of agents, and support and civilization of Indians at Colville and Puyallup agencies, and for pay of employees, thirteen thousand dollars.

Tacoma. Sale of part of Indian cemetery, etc. That the Secretary of the Interior, in his discretion, is hereby authorized, with the consent of the Indians, to be obtained in such manner as he may deem best, to sell, under rules and regulations to be prescribed by him, any tract or part of any tracts of land heretofore set apart and reserved for cemetery and church purposes in the Indian addition to the city of Tacoma, Washington, not now needed for these purposes, and to use the proceeds of said sale for fencing and otherwise improving the part or parts now used, occupied, or needed for the cemetery and the church.

## Spokanes.

## SPOKANES. (Treaty.)

## Blacksmith, etc.

For pay of a blacksmith and carpenter to do necessary work and to instruct the said Indians in those trades, one thousand dollars each, per sixth article of agreement with said Indians, dated March eighteenth, eighteen hundred and eighty-seven, ratified by Act of Congress approved July thirteenth, eighteen hundred and ninety-two, two thousand dollars;

## Joseph's Band, Nez Perces.

For purchase of agricultural implements, and support and civilization of Joseph's Band of Nez Perce Indians, one thousand dollars;

## Yakimas.

## Irrigating allotments. Vol. 33, p. 57.

For the extension of the irrigation system on lands allotted to Yakima Indians in Washington, fifteen thousand dollars, to be reimbursed from the proceeds of the sale of surplus lands, as provided by the Act of December twenty-first, nineteen hundred and four, entitled "An Act to authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation in the State of Washington;" in all, fifteen thousand dollars.

## Colville Reservation. Part payment to Indians.

In part payment to the Indians residing on the Colville Reservation for the cession by said Indians to the United States of one million five hundred thousand acres of land opened to settlement by an Act of Congress "To provide for the opening of a part of the Colville Reservation in the State of Washington, and for other purposes," approved July first, eighteen hundred and ninety-two, being a part of the full sum set aside and held in the Treasury of the United States in payment for said land under the terms of the Act approved June twenty-first, nineteen hundred and six, ratifying the agreement ceding said

Vol. 27, p. 62.

Ante, p. 377.

FIFTY-NINTH CONGRESS. SESS. II. CH. 2285. 1907.

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land to the United States under date of May ninth, eighteen hundred and ninety-one, three hundred thousand dollars, said sum of three hundred thousand dollars to be paid to or expended for the benefit of said Indians under the direction of the Secretary of the Interior.

## WISCONSIN.

Wisconsin.

For pay of Indian agent at the La Pointe Agency, Wisconsin, one thousand eight hundred dollars.

La Pointe Agency.  
Agent.

## HAYWARD SCHOOL.

For the support and education of two hundred and ten pupils at the Indian school at Hayward, Wisconsin, thirty-five thousand five hundred and seventy dollars, and for pay of superintendent, one thousand five hundred dollars;

Hayward school.

For general repairs and improvements, three thousand dollars;

For clearing land, one thousand dollars;

In all, forty-one thousand and seventy dollars.

## TOMAH SCHOOL.

For support and education of two hundred and fifty Indian pupils at the Indian school, Tomah, Wisconsin, forty-two thousand and fifty dollars, and for pay of superintendent, one thousand seven hundred dollars;

Tomah school.

For general repairs and improvements, three thousand dollars;

In all, forty-seven thousand seven hundred and fifty dollars.

## CHIPPEWAS OF LAKE SUPERIOR.

For support and civilization of the Chippewas of Lake Superior, Wisconsin, to be expended for agricultural and educational purposes; pay of employees, including pay of physician, at one thousand two hundred dollars.

Chippewas of Lake  
Superior.  
Support, etc.

Purchase of goods and provisions, and for such other purposes as may be deemed for the best interests of said Indians, seven thousand dollars.

## WYOMING.

Wyoming.

For support and civilization of Shoshone Indians in Wyoming, twelve thousand dollars.

Shoshones.  
Support, etc.

## SHOSHONE SCHOOL.

For support and education of one hundred and seventy-five Indian pupils at the Indian school, Shoshone Reservation, Wyoming, twenty-eight thousand two hundred and twenty-five dollars, and for pay of superintendent, one thousand eight hundred dollars;

Shoshone Reserva-  
tion school.

For general repairs and improvements, five thousand dollars;

In all, thirty-six thousand and twenty-five dollars.

For general incidental expenses of the Indian Service in Wyoming, including traveling expenses of agents, one thousand dollars.

Incidentals.

## SHOSHONES AND BANNOCKS. (Treaty.) (For Bannocks, see Idaho.)

Shoshones.

SHOSHONES: For pay of physician, teacher, carpenter, miller, engineer, farmer, and blacksmith, as per tenth article of treaty of July third, eighteen hundred and sixty-eight, five thousand dollars;

Fulfilling treaty.  
Vol. 15, p. 676.



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FIFTY-NINTH CONGRESS. SESS. II. CHS. 2285-2287. 1907.

For pay of second blacksmith, and such iron and steel and other materials as may be required, as per eighth article of same treaty, one thousand dollars;

In all, six thousand dollars.

Shoshone reserva-  
tion.  
Irrigation system.  
Vol. 33, p. 1017.

For the purpose of carrying out the provisions of article four of the agreement ratified by the Act of March third, nineteen hundred and five, entitled "An Act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and make appropriation for carrying the same into effect," one hundred thousand dollars of the amount specified by said fourth article twenty-five thousand dollars to be immediately available and to be reimbursed from the proceeds derived from the sale of surplus lands, as provided by said Act.

Survey.

That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one thousand four hundred and one dollars, the same to be immediately available, for meandering the north bank of the Pope Agie River through township two south, range two east; townships one and two south, range three east; township one south, range four east, and the south bank of Big Wind River, through townships one north and one south, range four east, and township three north, range three west, surveying fractional townships one and two south, range two east, and making such retracements and resurveys as may be necessary in the diminished Shoshone Indian Reservation, Wyoming.

Sanatorium.  
Lease of lands for.

That the Secretary of the Interior be, and he hereby is, authorized to lease for a term not exceeding twenty-five years, lot one of section two in township one south of range one west of the Wind River meridian, in said reservation, for the erection of a sanatorium, at such rate of rental and subject to such rules and regulations as he may prescribe.

Approved, March 1, 1907.

March 1, 1907.  
[S. 6229.]

[Public, No. 153.]

Public lands,  
Sales for cemeteries  
authorized.

Price.

Proviso.  
Reversion.

**CHAP. 2286.**—An Act To authorize the sale of public lands for cemetery 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 be, and he is hereby, authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than one dollar and twenty-five cents per acre: *Provided,* That title to any land disposed of under the provisions of this Act shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided.

Approved, March 1, 1907.

March 1, 1907.  
[S. 7017.]

[Public, No. 154.]

Public lands,  
San Diego County,  
Cal.

**CHAP. 2287.**—An Act Extending the time for making settlement, final proof, and payment on public lands in certain cases.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the time for making final proof and payment for all lands located under the desert-land laws



## **18 USCS § 1151**

Current through PL 115-179, approved 6/1/18

**United States Code Service - Titles 1 through 54 > TITLE 18. CRIMES AND CRIMINAL PROCEDURE > PART I. CRIMES > CHAPTER 53. INDIANS**

### **§ 1151. Indian country defined**

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Except as otherwise provided in sections 1154 and 1156 of this *title* [*18 USCS §§ 1154 and 1156*], the term "Indian country", as used in this chapter [*18 USCS §§ 1151 et seq.*], means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

### **History**

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(June 25, 1948, ch 645, § 1, *62 Stat. 757*; May 24, 1949, ch 139, § 25, *63 Stat. 94*.)

#### **Prior law and revision:**

1948 Act

Based on sections 548 and 549 of title 18, and sections 212, 213, 215, 217, 218 of title 25, Indians, U.S. Code, 1940 ed. (R.S. §§ 2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, § 1, *18 Stat. 318*; Mar. 4, 1909, ch. 321, §§ 328, 329, *35 Stat. 1151*; Mar. 3, 1911, ch. 231, § 291, *36 Stat. 1167*; June 28, 1932, ch. 284, *47 Stat. 337*).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R.S. §§ 2145, 2146 (*U.S.C., title 25, §§ 217, 218*) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U.S. v. McBratney*, *104 U.S. 622* and *Draper v. U.S.*, *17 S.Ct. 107*, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, "Indian country" was defined but once. (See act June 30, 1834, ch. 161, Sec. 1, *4, Stat. 729*, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U.S. v. McGowan*, *58 S.Ct. 286*, *302 U.S. 535*, following *U.S. v. Sandoval*, *34 S.Ct. 1, 5, 231 U.S. 28, 46*. (See also *Donnelly v. U.S.*, *33 S.Ct. 449*, *228 U.S. 243*; and *Kills Plenty v. U.S.*, *133 F.2d 292*, certiorari denied, 1943, *63 S.Ct. 1172*). (See reviser's note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U.S. v. Pelican*, *1913, 34 S.Ct. 396, 232 U.S. 442, 58 L.Ed. 676*.

18 USCS § 1151

1949 Act

This section [section 25], by adding to section 1151 of title 18, U.S.C., the phrase "except as otherwise provided in sections 1154 and 1156 of this title", incorporates in this section the limitations of the term "Indian country" which are added to sections 1154 and 1156 by sections 27 and 28 of this bill.

UNITED STATES CODE SERVICE

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## **25 USCS § 398d**

Current through PL 115-179, approved 6/1/18

***United States Code Service - Titles 1 through 54 > TITLE 25. INDIANS > CHAPTER 12. LEASE, SALE, OR SURRENDER OF ALLOTTED OR UNALLOTTED LANDS***

### **§ 398d. Changes in boundaries of Executive order reservations**

Changes in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by Act of Congress.

### **History**

(March 3, 1927, ch 299, § 4, 44 Stat. 1347; Oct. 21, 1976, P.L. 94-579, Title VII, § 704(a), 90 Stat. 2792.)

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## **42 USCS § 1983**

Current through PL 115-179, approved 6/1/18

**United States Code Service - Titles 1 through 54 > TITLE 42. THE PUBLIC HEALTH AND WELFARE > CHAPTER 21. CIVIL RIGHTS > GENERALLY**

### **Notice**

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 *Part 1 of 13.* You are viewing a very large document that has been divided into parts.

### **§ 1983. Civil action for deprivation of rights**

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Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

### **History**

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(R. S. § 1979; Dec. 29, 1979, P.L. 96-170, § 1, 93 Stat. 1284; Oct. 19, 1996, P.L. 104-317, Title III, § 309(c), 110 Stat. 3853.)

UNITED STATES CODE SERVICE

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on June 8, 2018.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: June 8, 2018

Respectfully submitted,

SLOVAK BARON EMPEY MURPHY &  
PINKNEY LLP

By: /s/ Wendy S. Dowse