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FIVE NATIONS INDIAN LAND REFORM ACT

JUNE 11, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 2880]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2880) to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Five Nations Indian Land Reform Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

Sec. 101. Restrictions on real property.
Sec. 102. Reinvestment of proceeds from condemnation or conveyance of restricted property.
Sec. 103. Restricted funds.
Sec. 104. Period of restrictions.
Sec. 105. Removal of restrictions.
Sec. 106. Exemptions from prior claims.
Sec. 107. Fractional interests.

TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

Sec. 201. Approval authority for conveyances and leases.
Sec. 202. Approval of conveyances.
Sec. 203. Reimposition of restrictions on conveyances of property to Indian housing authorities.
Sec. 204. Administrative approval of partition in kind.
Sec. 205. Surface leases.
Sec. 206. Secretarial approval of mineral leases or agreements.

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Sec. 207. Management of mineral interests.
Sec. 208. Mortgages.

TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER PROCEEDINGS AFFECTING TITLE TO RESTRICTED PROPERTY

Sec. 301. Actions affecting restricted property.
Sec. 302. Heirship determinations and probates.
Sec. 303. Actions to cure title defects.
Sec. 304. Involuntary partitions.
Sec. 305. Requirements for actions to cure title defects and involuntary partitions.
Sec. 306. Pending State proceedings.

TITLE IV—MISCELLANEOUS

Sec. 401. Regulations.
Sec. 402. Validation of certain transactions; savings clause.
Sec. 403. Repeals.
Sec. 404. Secretarial trust responsibility.
Sec. 405. Representation by attorneys for the Department of the Interior.
Sec. 406. Filing requirements; constructive notice.
Sec. 407. Publication of designated officials.
Sec. 408. Rule of construction.
Sec. 409. Effective date.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Since 1970, Federal Indian policy has encouraged Indian self-determination and economic self-sufficiency. The exercise of Federal instrumentality jurisdiction by the Oklahoma State courts over the Indian property that is subject to Federal restrictions against alienation belonging to enrollees and descendants of enrollees whose names appear on the final 1906 Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, but now referred to as the Five Nations, is inconsistent with that policy.

(2) It is a goal of Congress to recognize the Indian land base as an integral part of the culture and heritage of Indian people.

(3) The exercise of Federal instrumentality jurisdiction by the courts of the State of Oklahoma over conveyances and inheritance of restricted property belonging to Individual Indians—

(A) is costly, confusing, and cumbersome, and effectively prevents any meaningful Indian estate planning, and unduly complicates the probating of Indian estates and other legal proceedings relating to Individual Indians and their lands; and

(B) has impeded the self-determination and economic self-sufficiency of Individual Indians within the exterior boundaries of the Five Nations.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To correct the disparate Federal treatment of individual allotted lands of Individual Indians that resulted from prior Federal legislation by equalizing the Federal legislative treatment of restricted and trust lands.

(2) To eliminate unnecessary legal and bureaucratic obstacles that impede the highest and best use of restricted property belonging to Individual Indians.

(3) To provide for an efficient process for the administrative review and approval of conveyances, voluntary partitions, and leases, and to provide for Federal administrative proceedings in testate and intestate probate and other cases that involve the restricted property of Individual Indians, which concern the rights of Individual Indians to hold and acquire such property in restricted and trust status.

(4) To transfer to the Secretary the Federal instrumentality jurisdiction of the Oklahoma State courts together with other authority currently exercised by such courts over the conveyance, devise, inheritance, lease, encumbrance, and certain voluntary partition actions involving restricted property belonging to such Individual Indians.

SEC. 4. DEFINITIONS.

In this Act:

(1) FIVE NATIONS.—The term "Five Nations" means the Cherokee Nation, the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Seminole Nation of Oklahoma, and the Muscogee (Creek) Nation, collectively, which were historically referred to as the "Five Civilized Tribes".

(2) INDIAN COUNTRY.—The term "Indian country" has the meaning given that term in section 1151 of title 18, United States Code, which includes restricted property and trust property (as such terms are defined in this Act).

(3) INDIAN NATION.—The term "Indian Nation" means one of the individual Five Nations referred to in paragraph (1).

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(5) INDIVIDUAL INDIAN.—The term "Individual Indian" means a member or citizen of one of the individual Five Nations referred to in paragraph (1), an enrollee on the final Indian rolls of the Five Civilized Tribes closed in 1906, or an individual who is a lineal descendant by blood of an Indian ancestor enrolled on the final Indian rolls of the Five Civilized Tribes closed in 1906, regardless of whether such person is an enrolled member of one of the Five Nations.

(6) RESTRICTED PROPERTY.—(A) The term "restricted property" means any right, title, or interest in real property owned by an Individual Indian that is subject to a restriction against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances imposed by this Act and other laws of the United States expressly applicable to the property of enrollees and lineal descendants of enrollees on the final Indian rolls of the Five Civilized Tribes in 1906.

(B) The term "restricted property" includes, without limitation, those interests in the estate of a decedent Individual Indian who died prior to the effective date of this Act that were, immediately prior to the decedent's death, subject to restrictions against alienation imposed by the laws of the United States but that had not, as of the effective date of this Act—

(i) been the subject of a final order determining the decedent's heirs and distributing the restricted property issued by a State district court or a United States district court;

(ii) been conveyed by heirs by deed approved in State district court;

(iii) been conveyed by heirs of less than one-half degree of Indian blood with or without State district court approval; or

(iv) been the subject of Secretarial approval of removal of restrictions.

(C) The term "restricted property" does not include Indian trust allotments made pursuant to the General Allotment Act (25 U.S.C. 331 et seq.) or any other trust property.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior or the designee of the Secretary of the Interior.

(8) TRUST PROPERTY.—The term "trust property" means Indian property, title to which is held in trust by the United States for the benefit of an Individual Indian or an Indian Nation, provided that such property was acquired in trust by the United States under the authority of the Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the "Indian Reorganization Act") or the Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly known as the "Oklahoma Indian Welfare Act"), within the boundaries of the State of Oklahoma.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

SEC. 101. RESTRICTIONS ON REAL PROPERTY.

(a) APPLICATION.—Beginning on the effective date of this Act, all restricted property shall be subject to restrictions against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances, regardless of the degree of Indian blood of the Individual Indian who owns such property.

(b) CONTINUATION.—

(1) IN GENERAL.—Any restricted property, including any restricted property referred to in subsection (a), shall remain restricted property notwithstanding the acquisition of such property by an Individual Indian by inheritance, devise, gift, or exchange.

(2) WITH WAIVER.—Any restricted property, including any restricted property referred to in subsection (a), shall remain restricted property upon the acquisition of such property by an Individual Indian by election to take at partition or by purchase, but only if—

(A) prior to the execution of the deed transferring such restricted property, the Individual Indian who owned such property prior to such election to take or purchase executes a written waiver of his or her right to acquire other property in restricted status pursuant to section 102; and

(B) such restrictions appear in the deed transferring such property to the Individual Indian electing to take at partition or purchasing such property, together with certification on said deed by the Secretary that the requirements of this paragraph have been met.

SEC. 102. REINVESTMENT OF PROCEEDS FROM CONDEMNATION OR CONVEYANCE OF RESTRICTED PROPERTY.

(a) REQUIREMENT.—Upon the conveyance of the restricted property of an Individual Indian pursuant to this Act, or upon the conveyance or condemnation of such property pursuant to section 3 of the Act of March 3, 1901 (25 U.S.C. 357) or other Federal laws generally applicable to the condemnation of Indian trust or restricted property, any proceeds from such conveyance or condemnation shall be used to purchase from a willing seller other property designated by such Individual Indian, and such designated property shall be restricted property if—

(1) such proceeds were deposited into a segregated account in a trust fund under the supervision of the Secretary at the request of the Individual Indian;

(2) such Individual Indian provides a written request to the Secretary for payment of all or a portion of such proceeds for purchase of property to be held in restricted status;

(3) such Individual Indian has not executed a written waiver of his or her right to acquire other property in restricted status pursuant to section 101;

(4) such restrictions appear in the conveyance to the Individual Indian with certification by the Secretary that the requirements of this section have been met; and

(5) such property is located within the State of Oklahoma.

(b) FAIR MARKET VALUE IN EXCESS OF PROCEEDS.—If the fair market value of any property designated under subsection (a) exceeds the amount of proceeds that are derived from the conveyance or condemnation involved, a specific tract of land within the property shall be designated by the Individual Indian for placement in restricted status. The size of the restricted tract of land so designated shall be in the same proportion to the whole of the property as the proceeds derived from the conveyance or condemnation bears to the fair market value of the whole of the property. Such restrictions shall appear on the face of the deed with certification by the Secretary describing that portion of the property which is subject to restrictions.

(c) RULE OF CONSTRUCTION.—The provisions of subsections (a) and (b) of this section shall apply to the reinvestment of proceeds derived from the conveyance or condemnation of restricted property of an Individual Indian pursuant to the Act of March 2, 1931, as amended by the Act of June 30, 1932 (25 U.S.C. 409a), where such reinvestment occurs after the effective date of this Act.

SEC. 103. RESTRICTED FUNDS.

(a) IN GENERAL.—All funds and securities held or supervised by the Secretary derived from restricted property or Individual Indian trust property on or after the effective date of this Act, including proceeds from any conveyance or condemnation as provided for in section 102, are deemed to be restricted and shall remain subject to the jurisdiction of the Secretary.

(b) USE OF FUNDS.—Funds, securities, and proceeds described in subsection (a) may be released or expended by the Secretary for the use and benefit of the Individual Indians to whom such funds, securities, and proceeds belong, under such rules and regulations as the Secretary may prescribe.

SEC. 104. PERIOD OF RESTRICTIONS.

Subject to the provisions of this Act that permit restrictions to be removed, the period of restriction against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances of restricted property and funds belonging to Individual Indians, is hereby extended until an Act of Congress determines otherwise.

SEC. 105. REMOVAL OF RESTRICTIONS.

(a) PROCEDURE.—

(1) APPLICATION.—An Individual Indian who owns restricted property, or the legal guardian of a minor Individual Indian or an Individual Indian who has been determined to be legally incompetent by a court of competent jurisdiction (including a tribal court), may apply to the Secretary for an order removing restrictions on any interest in restricted property owned by such Individual Indian.

(2) CONSIDERATION OF APPLICATION.—An application under paragraph (1) shall be considered by the Secretary only as to the tract, tracts, or severed mineral or surface interest described in the application. Not later than 90 days after the date on which an application is submitted, the Secretary shall either issue the removal order or disapprove the application.

(3) DISAPPROVAL.—The Secretary shall disapprove an application under paragraph (1) if—

(A) in the Secretary's judgment, the applicant has been subjected to fraud, undue influence, or duress by a third party; or

(B) the Secretary determines it is otherwise not in the Individual Indian owner's best interest.

(b) REMOVAL OF RESTRICTIONS.—When an order to remove restrictions becomes effective under subsection (a), the Secretary shall issue a certificate describing the property and stating that the Federal restrictions have been removed.

(c) SUBMISSION OF LIST.—Not later than April 1 of each year, the Secretary shall cause to be filed with the county treasurer of each county in the State of Oklahoma where restricted property is situated, a list of restricted property that has lost its restricted status during the preceding calendar year in accordance with the provisions of this Act.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to—

(1) abrogate valid existing rights to property that is subject to an order to remove restrictions under this section; and

(2) remove restrictions on any other restricted property owned by the applicant.

SEC. 106. EXEMPTIONS FROM PRIOR CLAIMS.

Sections 4 and 5 of the Act of May 27, 1908 (35 Stat. 312, chapter 199), shall apply to all restricted property.

SEC. 107. FRACTIONAL INTERESTS.

Upon application by an Individual Indian owner of an undivided unrestricted interest in property of which a portion of the interests in such property is restricted as of the effective date of this Act, the Secretary shall forthwith convert that unrestricted interest into restricted status if all of the interests in the property are owned by Individual Indians as tenants in common as of the date of the application under this section. The conversion into restricted status shall be effective upon the date of filing of a restricted form deed with the county clerk of the county where the property is situated; provided that such deed must be executed by the applicant and approved by the Secretary.

TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

SEC. 201. APPROVAL AUTHORITY FOR CONVEYANCES AND LEASES.

The Secretary shall have exclusive jurisdiction to approve conveyances and leases of restricted property by an Individual Indian or by any guardian or conservator of any Individual Indian who is a ward in any guardianship or conservatorship proceeding pending in any court of competent jurisdiction, except that petitions for such approvals that are filed in Oklahoma district courts prior to the effective date of this Act shall be heard and adjudicated by such courts pursuant to the procedures described in section 1 of the Act of August 4, 1947 (61 Stat. 731, chapter 458), as in effect on the day before the effective date of this Act, unless the Individual Indian, guardian, or conservator dismisses the petition or otherwise objects to the conveyance or lease prior to final court approval.

SEC. 202. APPROVAL OF CONVEYANCES.

(a) PROCEDURE.—

(1) IN GENERAL.—Except as provided in subsection (b), restricted property may be conveyed by an Individual Indian pursuant to the procedures described in this subsection.

(2) REQUIREMENTS.—An Individual Indian may only convey restricted property—

(A) after the property is appraised by the Secretary;

(B) for an amount that is not less than 90 percent of the appraised value of the property;

(C) to the highest bidder through the submission to the Secretary of closed, silent bids or negotiated bids; and

(D) upon the approval of the Secretary.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a)(2), an Individual Indian may convey his or her restricted property, or any portion thereof, to any of the individuals described in paragraph (2) without soliciting bids, providing notice, or for consideration which is less than the appraised value of the property, if the Secretary determines that the conveyance is not contrary to the best inter-

ests of the Individual Indian and that the Individual Indian has been duly informed of and understands the fair market appraisal, and is not being coerced into the conveyance.

(2) INDIVIDUALS.—An individual described in this paragraph is the Individual Indian spouse (if he or she is an Individual Indian, father, mother, brother or sister, son, daughter or other lineal descendant, aunt or uncle, cousin, niece or nephew, or Individual Indian co-owner.

SEC. 203. REIMPOSITION OF RESTRICTIONS ON CONVEYANCES OF PROPERTY TO INDIAN HOUSING AUTHORITIES.

(a) IN GENERAL.—In any case where the restrictions have been removed from restricted property for the purpose of allowing conveyances of the property to Indian housing authorities to enable such authorities to build homes for individual owners or relatives of owners of restricted property, the Secretary shall issue a Certificate of Restricted Status describing the property and imposing restrictions thereon upon written request by the Individual Indian homebuyer or a successor Individual Indian homebuyer. Such request shall include evidence satisfactory to the Secretary that the homebuyer's contract has been paid in full and be delivered to the Secretary not later than 3 years after the housing authority conveys such property back to the original Individual Indian homebuyer or an Individual Indian assignee or successor of the original Individual Indian homebuyer.

(b) EXISTING LIENS.—Prior to issuing a certificate under subsection (a) with respect to property, the Secretary may require the elimination of any existing liens or other encumbrances which would substantially interfere with the use of the property.

(c) APPLICATION TO CERTAIN HOMEBUYERS.—Individual Indian homebuyers described in subsection (a) who acquired ownership of property prior to the effective date of this Act shall have 3 years from such effective date to request that the Secretary issue a certificate under such subsection.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to limit or affect the rights of Individual Indians described in this section under other Federal laws and regulations relating to the acquisition and status of trust property.

SEC. 204. ADMINISTRATIVE APPROVAL OF PARTITION IN KIND.

(a) JURISDICTION.—

(1) IN GENERAL.—The Secretary shall have exclusive jurisdiction to approve the partition in kind of property, where—

(A) all of said property is held in trust or restricted status in common ownership by more than 1 Individual Indian owner;

(B) all owners consent to the partition in writing; and

(C) all other requirements of subsections (b) and (c) are met.

(2) VOLUNTARY PARTITION IN KIND.—The Secretary shall have jurisdiction to approve the voluntary partition in kind of property consisting of both restricted and unrestricted, or both trust and nontrust, undivided interests if all owners consent to such partition in kind in writing.

(b) APPLICATION FOR PARTITION.—

(1) IN GENERAL.—An owner or owners of an undivided interest in any property described in subsection (a) may make written application, on a form approved by the Secretary, for the partition in kind of their trust or restricted property.

(2) DETERMINATION.—If, based on an application submitted under paragraph (1), the Secretary determines that the property involved is susceptible to partition in kind, the Secretary shall initiate partition of the property by—

(A) notifying the owners of such determination;

(B) providing the owners with a partition plan; and

(C) affording the owners a reasonable time to respond, object, or consent in accordance with subsection (c).

(c) PARTITION PROCEDURES.—

(1) PROPOSED LAND DIVISION PLAN.—The Secretary shall give applicants under subsection (b) and all other owners of property subject to a partition application under this section with a reasonable opportunity to negotiate a proposed land division plan for the purpose of securing ownership of a tract on the property equivalent to their respective interests in the undivided estate, prior to taking any action related to partition in kind of the property under this section.

(2) APPROVAL.—The Secretary may attempt to negotiate for partition in kind or for sale of all or a portion of the property, and secure appropriate deeds from all interest owners, subject to the Secretary's approval, if a plan under paragraph (1) is approved by—

(A) Individual Indian owners of more than 50 percent of the property which is entirely in trust status (as distinguished from restricted status)

and if the Secretary finds the plan to be reasonable, fair, and equitable, the Secretary may issue an order partitioning the trust property in kind; or

(B) any Individual Indian who owns an undivided interest which is held in restricted status (as distinguished from trust status) and if the Secretary finds the plan to be reasonable, fair, and equitable.

(3) LIMITATION.—No partition under paragraph (2)(B) shall be effected unless all of the owners have consented to the plan in writing.

SEC. 205. SURFACE LEASES.

The surface of restricted property may be leased by an Individual Indian pursuant to the Act of August 9, 1955 (25 U.S.C. 415 et seq.), except that the Secretary may approve any agricultural lease or permit with respect to restricted property in accordance with the provisions of section 105 of the American Indian Agricultural Resource Management Act (25 U.S.C. 3715) and section 219 of the Indian Land Consolidated Act (25 U.S.C. 2218).

SEC. 206. SECRETARIAL APPROVAL OF MINERAL LEASES OR AGREEMENTS.

(a) APPROVAL.—

(1) GENERAL RULE.—No lease or agreement purporting to convey or create any mineral interest in restricted or trust property that is entered into or renewed after the effective date of this Act shall be valid unless approved by the Secretary.

(2) REQUIREMENTS.—The Secretary may approve a lease or agreement described in paragraph (1) only if—

(A) the Individual Indian owners of a majority of the undivided interest in the restricted or trust mineral estate that is the subject of the lease or agreement (including any interest covered by a lease or agreement executed by the Secretary under subsection (c)) consent to the lease or agreement;

(B) the Secretary determines that approving the lease or agreement is in the best interest of the Individual Indian owners of the restricted or trust mineral interests; and

(C)(i) the Secretary has accepted the highest bid for such lease or agreement after a competitive bidding process has been conducted by the Secretary, or

(ii) the Secretary has determined that it is in the best interest of the Individual Indian owners to award a lease made by negotiation, and the Individual Indian owners so consent in writing.

(b) EFFECT OF APPROVAL.—Upon the approval of a lease or agreement by the Secretary under subsection (a), the lease or agreement shall be binding upon all owners of the restricted or trust undivided interests subject to the lease or agreement and all other parties to the lease or agreement, to the same extent as if all of the owners of the restricted or trust mineral interests involved had consented to the lease or agreement.

(c) EXECUTION OF LEASE OR AGREEMENT BY SECRETARY.—The Secretary may execute a mineral lease or agreement that affects restricted or trust property interests on behalf of an Individual Indian owner if that owner is deceased and the heirs to, or devisees of, the interest of the deceased owner have not been determined, or if the heirs or devisees have been determined but one or more of the heirs or devisees cannot be located.

(d) DISTRIBUTION OF PROCEEDS.—The proceeds derived from a mineral lease or agreement approved by the Secretary under subsection (a) shall be distributed in accordance with the interest held by each owner pursuant to such rules and regulations as may be promulgated by the Secretary.

(e) COMMUNITIZATION AGREEMENTS.—Restricted or trust mineral interests underlying property located within a spacing and drilling unit approved by the Oklahoma Corporation Commission shall not be drained of any oil or gas by a well within such unit without a communitization agreement prepared and approved by the Secretary, except that in the event of any such drainage without a communitization agreement approved by the Secretary, 100 percent of all revenues derived from the production from any such restricted or trust property shall be paid to the Individual Indian owner free of all lifting and other production costs.

SEC. 207. MANAGEMENT OF MINERAL INTERESTS.

(a) OIL AND GAS CONSERVATION LAWS.—

(1) IN GENERAL.—The oil and gas conservation laws of the State of Oklahoma shall apply to restricted property.

(2) ENFORCEMENT.—The Oklahoma Corporation Commission shall have the authority to perform ministerial functions related to the enforcement of the laws referred to in paragraph (1), including enforcement actions against well operators, except that no order of the Corporation Commission affecting restricted

Indian property shall be valid as to such property until such order is submitted to and approved by the Secretary.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to grant to the State of Oklahoma regulatory jurisdiction over the protection of the environment and natural resources of restricted property, except to the limited extent granted by this subsection.

(b) IMPLEMENTATION OF FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT.—Beginning on the effective date of this Act, the Secretary shall exercise all the duties and responsibilities of the Secretary under the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1702 et seq.) with respect to an oil and gas lease where—

(1) the Secretary has approved the oil and gas lease pursuant to section 206(a);

(2) the Secretary has, prior to the effective date of this Act, approved the oil and gas lease pursuant to the Act of May 27, 1908 (35 Stat. 312, chapter 199); or

(3) the Secretary has, before the effective date of this Act, approved an oil and gas lease of lands of any of the Five Nations pursuant to the Act of May 11, 1938 (25 U.S.C. 396a et seq.).

SEC. 208. MORTGAGES.

An Individual Indian may mortgage restricted property only in accordance with and under the authority of the Act of March 29, 1956 (25 U.S.C. 483a).

TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER PROCEEDINGS AFFECTING TITLE TO RESTRICTED PROPERTY

SEC. 301. ACTIONS AFFECTING RESTRICTED PROPERTY.

The Secretary shall have jurisdiction over actions affecting title to, or use or disposition of, trust property or restricted property. The United States District Court in the State of Oklahoma and the courts of the State of Oklahoma shall have jurisdiction over actions affecting title to, or use or disposition of, trust property or restricted property only to the extent expressly authorized by this Act or by other Federal laws applicable to trust property or restricted property.

SEC. 302. HEIRSHIP DETERMINATIONS AND PROBATES.

(a) JURISDICTION.—The Secretary shall have exclusive jurisdiction, to probate wills or otherwise determine heirs of deceased Individual Indians and to adjudicate all such estate actions to the extent that they involve individual trust property, restricted property, or restricted or trust funds or securities held or supervised by the Secretary derived from such property, subject to the following exceptions:

(1) The Secretary shall not have jurisdiction over such estate actions that are pending in the courts of the State of Oklahoma as provided in section 306.

(2) The Secretary shall not have jurisdiction over any estate for which a final order of probate or determination of heirs was issued by a court of the State of Oklahoma or a United States district court.

(b) GOVERNING LAWS.—Notwithstanding any other provision of law, the Secretary shall exercise the Secretary's jurisdiction and authority under this section in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) and such rules and regulations which heretofore have been, or will be, prescribed by the Secretary for the probate of wills, determination of heirs, and distribution of property in estates of Indian decedents, subject to the following requirements:

(1) LAW APPLICABLE TO ESTATES OF INDIVIDUAL INDIAN DECEDENTS WHO DIED PRIOR TO EFFECTIVE DATE.—The administrative law judge or other official designated by the Secretary shall apply the laws of descent and distribution of the State of Oklahoma contained in title 84 of the Oklahoma Statutes, chapter 4, to all restricted property, trust property, and all restricted or trust funds or securities derived from such property in the estates of deceased Individual Indians who died intestate prior to the effective date of this Act.

(2) LAW APPLICABLE TO WILLS EXECUTED PRIOR TO EFFECTIVE DATE.—The Secretary shall determine the validity and effect of wills as to estates containing trust property or restricted property when such wills were executed by Individual Indians prior to the effective date of this Act, in accordance with the laws of the State of Oklahoma governing the validity and effect of wills, provided that the will of a full-blood Individual Indian which disinherits the parent, spouse, or one or more children of such full-blood Individual Indian shall not

be valid with respect to the disposition of restricted property unless the requirements of section 23 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876), as in effect on the day before the effective date of this Act, are met.

(3) LAW APPLICABLE TO WILLS EXECUTED ON OR AFTER EFFECTIVE DATE.—

(A) IN GENERAL.—Any Individual Indian who has attained age 18 and owns restricted property or trust property shall have the right to dispose of such property by will, executed on or after the effective date of this Act in accordance with regulations which heretofore have been, or will be, prescribed by the Secretary for the probate of wills, provided—

(i) no will so executed shall be valid or have any force or effect unless and until such will has been approved by the Secretary; and

(ii) that the Secretary may approve or disapprove such will either before or after the death of the Individual Indian testator.

(B) FRAUD.—In any case where a will has been approved by the Secretary under subparagraph (A) and it is subsequently discovered that there was fraud in connection with the execution or procurement of the will, the Secretary is authorized, within 1 year after the death of the testator, to cancel approval of the will. If an approval is canceled in accordance with the preceding sentence, the property purported to be disposed of in the will shall descend or be distributed in accordance with the Secretary's rules and regulations applicable to estates of Indian decedents who die intestate.

(4) FEDERAL LAW CONTROLS.—Notwithstanding any other provision of this section, Federal law governing personal claims against the estate of a deceased Individual Indian or against trust property or restricted property, including the restrictions imposed by this Act or other applicable Federal law against the alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances of trust property or restricted property shall apply to all such property contained in the estate of the deceased Individual Indian.

SEC. 303. ACTIONS TO CURE TITLE DEFECTS.

(a) JURISDICTION.—Except as provided in subsections (b) and (c), the United States district courts in the State of Oklahoma and the State courts of Oklahoma shall retain jurisdiction over actions seeking to cure defects affecting the marketability of title to restricted property, except that all such actions shall be subject to the requirements of section 305.

(b) ADVERSE POSSESSION.—No cause of action may be brought to claim title to or an interest in restricted property by adverse possession or the doctrine of laches on or after the effective date of this Act, except that—

(1) all such causes that are pending on the effective date of this Act in accordance with the provisions of section 3 of the Act of April 12, 1926 (44 Stat. 239, chapter 115), shall be subject to section 306; and

(2) an action to quiet title to an interest in restricted property on the basis of adverse possession may be filed in the courts of the State of Oklahoma provided that all requirements of Oklahoma law for acquiring title by adverse possession, including the running of the full 15-year limitations period, have been met prior to the effective date of this Act, the claimant in any such action has shown by clear and convincing evidence that the limitations period had run in full prior to the effective date of this Act, and the procedures set forth in section 305 are followed.

(c) HEIRSHIP DETERMINATIONS AND DISPOSITIONS.—Nothing in this section shall be construed to authorize a determination of heirs in a quiet title action in Federal or State court in derogation of the Secretary's exclusive jurisdiction to probate wills or otherwise determine heirs of the deceased Individual Indians owning restricted property and to adjudicate all such estate actions involving restricted property pursuant to section 302, or in derogation of the Secretary's exclusive jurisdiction over the disposition of restricted property under this Act. Any grantee of an heir who, prior to the effective date of this Act and in accordance with applicable Federal laws, conveyed, leased, or otherwise encumbered his or her interest in the restricted property of an unprobated estate of an Individual Indian decedent shall have standing to request that the Secretary determine the heirs of the decedent in order to establish marketable title in said grantee. For purposes of this subsection the term grantee shall include any grantee, lessee, or mortgagee of such heir and any successors or assigns of such grantee.

SEC. 304. INVOLUNTARY PARTITIONS.

(a) PETITION; JURISDICTION AND APPLICABLE LAW; REQUIREMENTS.—

(1) PETITIONS.—Any person who owns any undivided interest in a tract of property consisting entirely or partially of undivided restricted interests, regardless of the size of that person's interest in the whole tract, may file an action in the United States district court in the district wherein the tract is lo-

cated or the Oklahoma State district court for the county wherein the tract is located for the involuntary partition of such tract.

(2) JURISDICTION; APPLICABLE LAW.—The United States district courts in the State of Oklahoma and the State courts of Oklahoma shall have jurisdiction over actions for the involuntary partition of property filed pursuant to this section, subject to all requirements and limitations of this section and the requirements in sections 305 and 306. The laws of the State of Oklahoma governing the partition of property shall be applicable to all actions for involuntary partition under this section, except to the extent that any such laws are in conflict with any provisions of this section and sections 305 and 306.

(3) AGREEMENT AFTER INITIATION OF ACTION.—If after the initiation of any action authorized by this section, the parties to the suit reach an agreement for the partition of the property in kind or by sale, such agreement shall not be valid or binding as to the restricted interests until it is approved by the Secretary.

(4) APPROVAL OF ELECTION OR SALE.—If the tract consists of wholly or partially undivided restricted interests, the court may approve an election by any undivided interest owner to take the property at the full appraised value pursuant to the laws of the State of Oklahoma governing partitions or, if there is no such election, to approve the sale of the property at public auction for no less than two-thirds of the appraised value pursuant to the laws of the State of Oklahoma governing partitions.

(5) DETERMINATION OF VALUE.—The Secretary shall determine the value of the property and submit an appraisal to the court. If the value of the property determined by the Secretary is greater than the valuation or appraisement of the property made pursuant to law of the State of Oklahoma, the court shall set a hearing at which time the Secretary and any other party shall be afforded an opportunity to present evidence regarding the value of the property, following which the court may accept the Secretary's valuation, or accept the valuation and appraisement made pursuant to law of the State of Oklahoma, or order a new valuation and appraisement pursuant to law of the State of Oklahoma.

(b) PAYMENT TO NONCONSENTING OWNERS OF RESTRICTED INTERESTS.—Nonconsenting owners of undivided restricted interests shall receive for the sale of such interests their proportionate share of the greater of—

(1) the proceeds paid at the partition sale; or

(2) an amount equal to 90 percent of the appraised value of the tract.

(c) COSTS.—A nonconsenting Individual Indian owner of restricted interests shall not be liable for any filing fees or costs of an action under this section, including the cost of an appraisal, advertisement, and sale, and no such costs shall be charged against such nonconsenting owner's share of the proceeds of sale.

SEC. 305. REQUIREMENTS FOR ACTIONS TO CURE TITLE DEFECTS AND INVOLUNTARY PARTITIONS.

(a) IN GENERAL.—All actions authorized by sections 303 and 304 shall be conducted in accordance with the requirements and procedures described in this section.

(b) PARTIES.—

(1) UNITED STATES.—The United States shall not be a necessary and indispensable party to an action authorized under section 303 or 304. The Secretary may participate as a party in any such action.

(2) PARTICIPATION OF THE SECRETARY.—If the Secretary elects to participate in an action as provided for under paragraph (1), the responsive pleading of the Secretary shall be made not later than 20 days after the Secretary receives the notice required under subsection (c), or within such extended time as the trial court in its discretion may permit.

(3) JUDGMENT BINDING.—After the appearance of the Secretary in any action described in paragraph (1), or after the expiration of the time in which the Secretary is authorized to respond under paragraph (2), the proceedings and judgment in such action shall be binding on the United States and the parties upon whom service has been made and shall affect the title to the restricted property which is the subject of the action, in the same manner and extent as though nonrestricted property were involved.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to waive the requirement of service of summons in accordance with applicable Federal or State law upon the Individual Indian landowners, who shall be necessary and indispensable parties to all actions authorized by sections 303 and 304.

(c) NOTICE.—

(1) IN GENERAL.—The plaintiff in any action authorized by sections 303 and 304 shall serve written notice of the filing of such action and of a petition or complaint, or any amended petition or complaint which substantially changes the nature of the action or includes a new cause of action, upon the Secretary not later than 10 days after the filing of any such petition or complaint or any such amended petition or complaint.

(2) FILING WITH CLERK.—At least one duplicate original of any notice served under paragraph (1) shall be filed with the clerk of the court in which the action is pending.

(3) REQUIREMENTS.—The notice required under paragraph (1) shall be—

(A) accompanied by a certified copy of all pleadings on file in the action at the time of the filing of the duplicate original notice with the clerk under paragraph (2);

(B) signed by the plaintiff to the action or his or her counsel of record; and

(C) served by certified mail, return receipt requested, and due return of service made thereon, showing date of receipt and service of notice.

(4) FAILURE TO SERVE.—If the notice required under paragraph (1) is not served within the time required under such paragraph, or if return of service thereof is not made within the time permitted by law for the return of service of summons, alias notices may be issued and filed until service and return of notice is made, except that in the event that service of the notice required under such paragraph is not made within 60 days following the filing of the petition or complaint or amendments thereof, the action shall be dismissed without prejudice.

(5) LIMITATION.—In no event shall the United States or the parties named in a notice filed under paragraph (1) be bound, or title to the restricted property be affected, unless written notice is served upon the Secretary as required under this subsection.

(d) REMOVAL.—

(1) IN GENERAL.—The United States shall have the right to remove any action to which this section applies that is pending in a State court to a United States district court by filing with the State court, not later than 20 days after the service of any notice with respect to such action under subsection (c), or within such extended period of time as the trial court in its discretion may permit, a notice of the removal of such action to a United States district court, together with the certified copy of the pleadings in such action as served on the Secretary under subsection (c).

(2) DUTY OF STATE COURT.—It shall be the duty of a State court to accept a notice filed under paragraph (1) and proceed no further in said suit.

(3) PLEADINGS.—Not later than 20 days after the filing of a notice under paragraph (1), the copy of the pleadings involved (as provided under such paragraph) shall be entered in the United States district court and the defendants and intervenors in such action shall, not later than 20 days after the pleadings are so entered, file a responsive pleading to the complaint in such action.

(4) PROCEEDINGS.—Upon the submission of the filings required under paragraph (3), the action shall proceed in the same manner as if it had been originally commenced in the United States district court, and its judgment may be reviewed by certiorari, appeal, or writ of error in like manner as if the action had been originally brought in such district court.

SEC. 306. PENDING STATE PROCEEDINGS.

The courts of the State of Oklahoma shall continue to exercise authority as a Federal instrumentality over all heirship, probate, partition, and other actions involving restricted property that are pending on the effective date of this Act until the issuance of a final judgment and exhaustion of all appeal rights in any such action, or until the petitioner, personal representative, or the State court dismisses the action in accordance with State law.

TITLE IV—MISCELLANEOUS

SEC. 401. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out this Act, except that failure to promulgate such regulations shall not limit or delay the effect of this Act.

SEC. 402. VALIDATION OF CERTAIN TRANSACTIONS; SAVINGS CLAUSE.

(a) VALIDATION OF CERTAIN TITLE TRANSACTIONS.—Any person having the legal capacity to own real property in the State of Oklahoma who claims ownership of an interest in such property through an unbroken chain of title of record, the title to which interest is or may be defective as a result of any transaction described in paragraphs (1) through (5) of this subsection that occurred in such chain of title, may cure the defect in title and validate the transaction by following the procedures of this section. When all conditions and requirements of this section have been met, and if no notice of objection has been timely filed by the Secretary under subsection (c) or by any other person under subsection (f), the transaction shall be validated and shall not be considered a defect in the muniments of title but only insofar as the defect is based on or arises from Federal statutes applicable to the conveyance or inheritance of restricted property in effect at the time of the transaction. The transactions referred to in this subsection are the following:

(1) Any probate order issued by a county court of the State of Oklahoma prior to the effective date of the Act of June 14, 1918 (40 Stat. 606) purporting to probate the estate of an Individual Indian who died owning property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of issuance of such probate order.

(2) Any probate order issued by a county or district court of the State of Oklahoma more than 30 years prior to the effective date of this Act purporting to probate the estate of a deceased Individual Indian who died owning property which was subject to restrictions against alienation pursuant to Federal law in effect at the time of issuance of such probate order, where notice was not given as required by Federal statutes in effect at the time.

(3) Any conveyance of record, including an oil and gas or mineral lease, of an interest in individual trust property or property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance executed by a person who was an heir or purported heir of the Individual Indian decedent who owned such property at the time of his death, if such conveyance was approved by a county or district court in Oklahoma more than 30 years before the effective date of this Act but where no judicial or administrative order of record was issued before or after such approval finding that such person was in fact the heir to the interest conveyed.

(4) Any conveyance of record, including an oil and gas or mineral lease, of individual trust property or property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance that was approved by a county or district court in Oklahoma or by the Secretary more than 30 years before the effective date of this Act, where—

(A) approval was not in compliance with the notice requirements of Federal statutes governing the conveyance of said individual trust property or said restricted property; or

(B) approval was given by a county or district court in Oklahoma of a conveyance of the property by a personal representative in a probate action over which said county or district court possessed jurisdiction, without compliance with Federal statutes governing the conveyance of the property in effect at the time of the conveyance.

(5) Any conveyance of record, including an oil and gas or mineral lease, of individual trust property or property which was subject to restrictions against alienation pursuant to Federal statutes in effect at the time of the conveyance that was approved by a county or district court in Oklahoma or by the Secretary at any time before the effective date of this Act, where—

(A) approval was given by the Secretary where the Federal statutes governing the conveyance of the property required approval by a county or district court in Oklahoma; or

(B) approval was given by a county or district court in Oklahoma where the Federal statutes governing the conveyance of the property in effect at the time of the conveyance required approval of the Secretary.

(b) NOTICE OF CLAIM; SERVICE AND RECORDING.—Any claimant described in subsection (a) must serve written notice of his or her claim by certified mail, return receipt requested, on the Secretary, and file the notice of claim, together with a copy of the return receipt showing delivery to the Secretary and filing in the office of county clerk in the county or counties wherein the property is located. The notice shall not be complete for the purposes of this section until it has been served on the Secretary and filed of record as herein provided. The notice of claim shall set forth the following:

(1) The claimant's name and mailing address.

(2) An accurate and full description of all property affected by such notice, which description shall be set forth in particular terms and not be general in-

clusions; but if said claim is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument.

(3) A specific reference to or description of each title transaction in the chain of title that the claimant is attempting to validate pursuant to this section.

(4) A list of all documents of record that are part of the claimant's unbroken chain of title, copies of which documents shall be served with the notice.

(c) RESPONSE DEADLINE; EXTENSION.—The Secretary shall have 60 days from date of receipt of the notice of claim in which to notify the claimant in writing that the Secretary exercises discretionary authority to object to the claim for any reason. The Secretary shall be entitled to an automatic extension of time of 60 days in which to object to the claim upon the Secretary's service of written notice of extension on the claimant within the initial 60-day response period.

(d) NOTICE OF OBJECTION; REMEDIES.—The Secretary shall send the notice of objection and any notice of extension of time to the claimant by certified mail to the address set forth in the claimant's notice to the Secretary. The Secretary's notice of objection or notice of extension of time shall include a description of the property and shall be effective on the date of mailing. The Secretary shall file the notice of objection or notice of extension of time in the office of the county clerk for the county or counties wherein the property is located within 30 days after the date of mailing of the notice to the claimant. If the Secretary notifies the claimant that the Secretary objects to the claim, such decision shall be final for the Department and the claimant's sole remedies shall be to file an action to cure title defects pursuant to section 303 of this Act or to request a determination of heirs in accordance with section 302 of this Act.

(e) UNDISPUTED CLAIM.—If, in the exercise of discretionary authority pursuant to subsection (c), the Secretary does not object to the claim, then the Secretary may notify the claimant that the matter is not in dispute. Failure of the Secretary to notify the claimant of the Secretary's objection within the initial 60-day period, or within the 60-day extension period if notice of an extension was given, shall constitute acceptance of the claim. If the Secretary notifies the claimant that the matter is not in dispute or fails to file an objection to the claim of record within the time required by subsection (d), the title transaction described in the claimant's notice shall be deemed validated and shall not be considered a defect in the muniments of the claimant's title based on or arising from Federal statutes governing the conveyance of restricted property in effect at the time of the transaction, provided that no written notice of objection is timely filed by other parties in accordance with subsection (f) of this section.

(f) NOTICE OF OBJECTION BY OTHER PARTIES TO APPLICABILITY OF THIS SECTION.—Any person claiming ownership of an interest in property the record title to which includes a title transaction described in subsection (a) of this section may prevent the application of subsections (a) through (e) to said interest by filing for record in the office of the county clerk for the county or counties wherein the property in question is located, no later than 3 years after the effective date of this Act, a written notice of objection in the form of a declaration made under oath setting forth the following:

(1) The declarant's name and mailing address.

(2) An accurate and full description of all of the declarant's property interests to be affected by such notice, which description shall be set forth in particular terms and not be general inclusions; but if said declarant's claim to ownership is founded upon a recorded instrument, then the description in such notice may be the same as that contained in such recorded instrument.

(3) A statement that the declarant claims in good faith to be the owner of an interest in the property described in the notice and that the declarant objects to the operation of this section with respect to any title transaction that would otherwise be subject to validation under this section.

(g) INTERESTS OF HEIRS OF LESS THAN HALF-BLOOD.—Nothing in this Act shall be construed to invalidate—

(1) any conveyance of record, including a surface, oil and gas, or mineral lease, of an interest in property made prior to the effective date of this Act by an heir of a deceased Individual Indian without district court approval where such heir was of less than one-half degree of Indian blood, even though the property was held in restricted status immediately prior to the decedent Individual Indian's death; or

(2) any other encumbrance that attached prior to the effective date of this Act to an interest in property of an heir of a deceased Individual Indian where such heir was of less than one-half degree of Indian blood, even though the property was held in restricted status immediately prior to the decedent Individual Indian's death.

(h) TERMS.—For purposes of this section:

(1) A person shall be deemed to have an unbroken chain of title when the official public records, including probate and other official public records, as well as records in the county clerk's office, disclose a conveyance or other title transaction of record not less than 30 years prior to the effective date of this Act, which said conveyance or other title transaction purports to create such interest, either in—

(A) the person claiming such interest; or

(B) some other person from whom, by 1 or more conveyances or other title transactions of record, such purported interest has become vested in the person claiming such interest; with nothing appearing of record, in either case, purporting to divest such claimant of such purported interest.

(2) The term recording, when applied to the official public records of any officer or court, includes filing with the officer or court.

SEC. 403. REPEALS.

(a) IN GENERAL.—The following provisions are repealed:

(1) The Act of August 11, 1955 (69 Stat. 666, chapter 786, 25 U.S.C. 355 note).

(2) Sections 1 through 5, 7 through 9, and 11 through 13 of the Act of August 4, 1947 (61 Stat. 731, chapter 458, 25 U.S.C. 355 note).

(3) The Act of December 24, 1942 (56 Stat. 1080, Chapter 813).

(4) The Act of February 11, 1936 (25 U.S.C. 393a, Chapter 50).

(5) The Act of January 27, 1933 (47 Stat. 777, chapter 23, 25 U.S.C. 355 note).

(6) Sections 1, 2, 4, and 5 of the Act of May 10, 1928 (45 Stat. 495, chapter 517).

(7) The Act of April 12, 1926 (44 Stat. 239, chapter 115).

(8) Sections 1 and 2 of the Act of June 14, 1918 (Chapter 101, 25 U.S.C. 375 and 355, respectively).

(9) Sections 1 through 3 and 6 through 12 of the Act of May 27, 1908 (35 Stat. 312, chapter 199).

(10) Sections 6, 11, 15, 18, 20, and 23 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876).

(b) TECHNICAL AMENDMENTS.—

(1) Section 28 of the Act of April 26, 1906 (34 Stat. 137, chapter 1876) is amended—

(A) by striking the first proviso; and

(B) by striking "*Provided further*" and inserting "*Provided*".

(2) Section 6 of the Act of August 4, 1947 (61 Stat. 733, chapter 458) is amended—

(A) in subsection (c), by inserting before the final period the following: ": *Provided further*, That any interest in restricted and tax-exempt lands acquired by descent, devise, gift, exchange, partition, conveyance, or purchase with restricted funds after the date of the enactment of the Five Nations Indian Land Reform Act by an Indian of the Five Civilized Tribes shall continue to be tax-exempt during the restricted period"; and

(B) in subsection (e), by striking the first sentence.

(3) The Act of May 7, 1970 (84 Stat. 203, Public Law 91–240, 25 U.S.C. 375d), is amended—

(A) by inserting "Creek," after "Cherokee,"; and

(B) by striking "derived and shall" and inserting the following: "derived. Such lands, interests, and profits, and any restricted Indian lands or interests therein allotted by any such Indian nation that are reacquired by that Indian nation by conveyance authorized under section 202(a) of the Five Nations Indian Land Reform Act shall".

(4) Section 1 of the Act of October 22, 1970 (84 Stat. 1091, Public Law 91–495), is amended by striking the last sentence.

SEC. 404. SECRETARIAL TRUST RESPONSIBILITY.

Nothing in this Act shall be construed to waive, modify, or diminish in any way the trust responsibility of the United States over restricted property.

SEC. 405. REPRESENTATION BY ATTORNEYS FOR THE DEPARTMENT OF THE INTERIOR.

Attorneys of the Department of the Interior may—

(1) represent the Secretary in any actions filed in the State courts of Oklahoma involving restricted property;

(2) when acting as counsel for the Secretary, provide information to all Individual Indians owning restricted property (and to private counsel for such Individual Indians if any) regarding their legal rights with respect to the restricted property owned by such Individual Indians;

(3) at the request of any Individual Indian owning restricted property, take such action as may be necessary to cancel or annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other encumbrance of any kind or character, made or attempted to be made or executed in violation of this Act or any other Federal law, and take such action as may be necessary to assist such Individual Indian in obtaining clear title, acquiring possession, and retaining possession of restricted property; and

(4) in carrying out paragraph (3), refer proposed actions to be filed in the name of the United States in a district court of the United States to the United States Attorney for that district, and provide assistance in an of-counsel capacity in those actions that the United States Attorney elects to prosecute.

SEC. 406. FILING REQUIREMENTS; CONSTRUCTIVE NOTICE.

(a) REQUIREMENT FOR FILING.—The Secretary shall file the following orders or other decision documents which concern restricted property and are issued after the effective date of this Act by the Secretary in the appropriate offices of the Department of the Interior, as designated by the Secretary, and in the office of the county clerk in the county where such restricted property is located:

(1) Any order or other decision document removing restrictions, imposing restrictions, approving conveyances, approving leases, approving voluntary partitions, approving mortgages, probating wills, or determining heirs.

(2) Any notice issued by the Secretary pursuant to section 402.

(b) CONSTRUCTIVE NOTICE.—The filing of said documents pursuant to this section shall constitute constructive notice to the public of the effect of said documents filed.

(c) CERTIFICATION OF AUTHENTICITY.—The Secretary shall have authority to certify the authenticity of copies of such documents and title examiners shall be entitled to rely on said authenticated copies for the purpose of determining marketability of title to the property described therein.

SEC. 407. PUBLICATION OF DESIGNATED OFFICIALS.

The Secretary shall identify each designee for purposes of the receipt of notices or the performance of any Secretarial duty or function under this Act by publication of notice in the Federal Register.

SEC. 408. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to limit or affect the rights of Individual Indians under other Federal laws relating to the acquisition and status of trust property, including without limitation, the following:

(1) The Act of June 18, 1934 (25 U.S.C. 461 et seq.) (commonly known as the "Indian Reorganization Act").

(2) The Act of June 26, 1936 (25 U.S.C. 501 et seq.) (commonly known as the "Oklahoma Indian Welfare Act").

(3) The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.).

(4) Regulations relating to the Secretary's authority to acquire lands in trust for Indians and Indian tribes.

SEC. 409. EFFECTIVE DATE.

This Act shall take effect on January 1, 2003.

Amend the title so as to read: "A bill to amend laws relating to the lands of the enrollees and lineal descendants of enrollees whose names appear on the final 1906 Indian rolls of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the Five Civilized Tribes, and for other purposes.".

PURPOSE OF THE BILL

The purpose of H.R. 2880, is to amend laws relating to the lands of the citizens of the Muscogee (Creek), Seminole, Cherokee, Chickasaw, and Choctaw Nations, historically referred to as the "Five Civilized Tribes," and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

"Individual Indian" landowners in the Muscogee (Creek), Seminole, Cherokee, Chickasaw and Choctaw Nations (the Five Nations) in eastern Oklahoma face certain problems involving "restricted

property." Federal laws grant Oklahoma State courts, as "federal instrumentalities," jurisdiction over probates dealing with restricted property. Consequently, a large and ever-increasing number of restricted estates have not been probated in eastern Oklahoma because many individual Indians cannot afford to pay for probate actions in State court. History has also shown that countless acres of restricted lands in eastern Oklahoma have been lost when State probate courts have authorized the sale of the restricted lands in estates simply to pay the court costs and attorneys fees for probating the estate. This often involved sale of the entire restricted estate, rather than sale of just enough property to pay the costs and attorneys fees.

These problems were documented as early as 1912. According to a 1925 report, restricted lands in eastern Oklahoma were not protected within the Oklahoma State court system, particularly in the area of State court guardianships. In addition, historic records demonstrate numerous instances where adult Indians, upon coming into large sums of money through ownership of oil or mineral development property, were taken into court, declared incompetent, had guardians appointed, and were forced to pay attorneys and guardians fees out of restricted funds.

H.R. 2880 attempts to deal with these longstanding problems through four broad solutions. First, H.R. 2880 tries to correct the disparate federal treatment of individual allotted lands of individual Indians that resulted from prior federal legislation, by equalizing the federal legislative treatment of restricted and trust lands. Ironically, the inequality arose due to the Five Nations' treaty-based fee ownership of their lands. Because of this fee ownership, the Five Nations avoided the forced allotment of their lands under the 1887 General Allotment Act, which authorized issuance by the United States of trust patents to individual Indian landowners who were members of tribes whose lands were held in trust by the United States. Since the United States did not own the Five Nations' lands, the federal government did not have legal authority to issue patents to individual tribal members. This resulted in a unique and complex system of federal allotment legislation and other federal laws applicable only to the Five Nations' allotted lands.

Second, H.R. 2880 eliminates unnecessary legal and bureaucratic obstacles that impede the highest, best, and most efficient use of restricted property by Indian owners. The bill amends current federal law which requires costly State court approval of sales and mineral leases of restricted property.

Third, H.R. 2880 establishes a process for the administrative review and approval of conveyances, voluntary partitions, and leases. The bill also streamlines federal administrative proceedings in testate and intestate probates and other cases that involve restricted property and the rights of individual Indians to hold and acquire property in restricted and trust status.

Finally, H.R. 2880 returns to the Department of the Interior the federal instrumentality jurisdiction of the Oklahoma State courts over the conveyance, devise, inheritance, lease, encumbrance, and certain partition actions involving restricted property belonging to individual Indians of the Five Nations. This will enable transactions to be handled administratively within the Department of

the Interior, thereby protecting Indian interests without unnecessary judicial proceedings.

COMMITTEE ACTION

After its introduction by Congressman Wes Watkins (R-OK) on September 12, 2001, H.R. 2880 was referred to the Committee on Resources. The Committee did not hold legislative hearings on the bill. On March 20, 2002, the Full Resources Committee met to consider the bill. Congressman James V. Hansen (R-UT) offered an amendment in the nature of a substitute to correct various technical and substantive inconsistencies and to clarify certain provisions. It was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

SECTION-BY-SECTION ANALYSIS OF BILL AS AMENDED

Section 1. Short Title; Table of Contents. Section 1 establishes the short title of the Act and provides a table of contents.

Section 2. Findings. Section 2 recognizes that State court federal instrumentality jurisdiction over restricted lands in eastern Oklahoma is inconsistent with federal Indian self-determination policy.

Section 3. Purposes. Section 3 describes the purposes of the legislation, which include correcting the historical disparate federal legislative treatment of individual allotted lands of "Individual Indians."

Section 4. Definitions. Section 4 defines the legislation's key terms.

"Five Nations" means the Cherokee Nation, the Chickasaw Nation, the Choctaw Nation of Oklahoma, the Seminole Nation of Oklahoma, and the Muscogee (Creek) Nation, collectively (historically referred to as the "Five Civilized Tribes").

"Indian Country" has the meaning given that term in section 1151 of title 18, United States Code, and expressly includes trust property and restricted property as those terms are defined in the bill.

"Indian Nation" means one of the individual Five Nations.

"Indian tribe" means an Indian tribe as defined by the Indian Self-Determination and Education Assistance Act.

"Individual Indian" means a member or citizen of one of the individual Five Nations, an enrollee on the final Five Civilized Tribes' 1906 Indian rolls, or an individual who is a lineal descendant by blood of an enrollee, regardless of whether such person is an enrolled member of one of the Five Nations.

"Restricted property" means any right, title, or interest in real property owned by an Individual Indian subject to a restriction against alienation, conveyance, lease, mortgage, creation of liens, or other encumbrances imposed by the legislation or certain other federal laws, but does not include trust property.

"Secretary" means the Secretary of the Interior or her designee.

"Trust property" means Indian property, title to which was acquired in trust by the United States for the benefit of an Individual Indian or an Indian Nation within the boundaries of the state of Oklahoma under authority of the Indian Reorganization Act or the Oklahoma Indian Welfare Act.

TITLE I—RESTRICTIONS; REMOVAL OF RESTRICTIONS

Section 101. Restrictions on Real Property. Section 101 provides that beginning on the effective date of the legislation, all restricted property shall be subject to restrictions, regardless of the degree of Indian blood of the Individual Indian who owns the property, and that restricted status will remain when the property is acquired by an Individual Indian by various described means.

Section 102. Reinvestment of Proceeds from Condemnation or Conveyance of Restricted Property. Section 102 describes procedures for Individual Indians to use proceeds from conveyance or condemnation of restricted property to purchase property to be held in restricted status.

Section 103. Restricted Funds. Section 103 requires that funds and securities that are held or supervised by the Secretary and are derived from restricted property or Individual Indian trust property on or after the effective date of the legislation are restricted and shall remain subject to the jurisdiction of the Secretary.

Section 104. Period of Restrictions. Section 104 provides that, subject to the provisions of the legislation that permit restrictions to be removed, the period of restriction is extended until an Act of Congress determines otherwise.

Section 105. Removal of Restrictions. Section 105 establishes the procedure for removal of restrictions from a specified interest in property owned by an Individual Indian.

Section 106. Exemptions from Prior Claims. Section 106 provides that Sections 4 and 5 of the Act of May 27, 1908 (35 Stat. 312, ch. 199) apply to restricted property.

Section 107. Fractional Interests. Section 107, which involves conversion of the status of certain undivided property interests, is similar to section 217 of the Indian Land Consolidation Act, Public Law 106–462, as amended (25 U.S.C. § 2216).

TITLE II—ADMINISTRATIVE APPROVAL OF CONVEYANCES, PARTITIONS, LEASES, AND MORTGAGES; MANAGEMENT OF MINERAL INTERESTS

Section 201. Approval Authority for Conveyances and Leases. Section 201 provides that the Secretary shall have exclusive jurisdiction to approve conveyances and leases of restricted property.

Section 202. Approval of Conveyances. Section 202 describes the procedure and requirements for Secretarial approval of conveyances of restricted property.

Section 203. Reimposition of Restrictions on Conveyances of Property to Indian Housing Authorities. Section 203 authorizes the Secretary to grant requests to reimpose restrictions on former restricted property used as sites for homes constructed by Indian housing authorities with Housing and Urban Development funds, subject to certain requirements.

Section 204. Administrative Approval of Partition in Kind. Section 204 establishes procedures for Secretarial approval of certain types of partitions of trust and restricted property.

Section 205. Surface Leases. Section 205 authorizes surface leases of restricted property in accordance with other federal laws of general applicability that are listed in this section.

Section 206. Secretarial Approval of Mineral Leases or Agreements. Section 206, which is based on Public Law 105–188, de-

scribes procedures for Secretarial approval of mineral leases and agreements affecting restricted property.

Section 207. Management of Mineral Interests. Section 207 makes the oil and gas conservation laws of the State of Oklahoma applicable to restricted property, requires Secretarial approval of Oklahoma Corporation Commission orders affecting restricted Indian property, and requires the Secretary to implement the Federal Oil and Gas Royalty Management Act with respect to leases currently supervised by the Secretary and with respect to all future leases approved by the Secretary.

Section 208. Mortgages. Section 208 provides that Individual Indians may mortgage restricted property only under the authority of the Act of March 29, 1956 (25 U.S.C. § 483a).

TITLE III—PROBATE, HEIRSHIP DETERMINATION, AND OTHER PROCEEDINGS AFFECTING TITLE TO RESTRICTED PROPERTY

Section 301. Actions Affecting Restricted Property. Section 301 recognizes Secretarial authority over actions affecting title to trust or restricted property, and provides that State and federal court cases for the curing of title defects to restricted property may be filed only pursuant to the express authorization contained in section 303 of the bill and subject to the limitations of that section.

Section 302. Heirship Determinations and Probates. Section 302 confers on the Secretary exclusive jurisdiction to probate wills and determine heirs of deceased Individual Indians in cases involving individual trust property, restricted property, and trust funds in accordance with the Indian Land Consolidation Act and the Secretary's rules and regulations. The Oklahoma State district courts will retain jurisdiction over the decedent Individual Indian's nonrestricted assets.

Section 303. Actions to Cure Title Defects. Section 303 provides that the Oklahoma State and federal courts will retain jurisdiction over actions to cure title defects in restricted property, subject to certain described exceptions.

Section 304. Involuntary Partitions. Section 304 authorizes state and federal courts to exercise jurisdiction over involuntary partition actions, subject to all requirements and limitations of sections 304, 305, and 306 of the bill.

Section 305. Requirements for Actions to Cure Title Defects and Involuntary Partitions. Section 305 contains requirements for State and federal court quiet title actions and involuntary partition actions involving restricted property.

Section 306. Pending State Proceedings. Section 306 authorizes the courts of the State of Oklahoma to continue to exercise federal instrumentality authority over heirship, probate, partition, and other actions involving restricted property pending on the effective date of the legislation, but allows the petitioner, personal representative, or State court to dismiss the action.

TITLE IV—MISCELLANEOUS

Section 401. Regulations. Section 401 authorizes the Secretary to promulgate regulations, but provides that failure to promulgate such regulations will not limit or delay the effect of the legislation.

Section 402. Validation of Certain Transactions; Savings Clause. Section 402 establishes procedures for curing certain title defects,

if all conditions and requirements of section 402 have been met, and no notice of objection has been timely filed by the Secretary or by any other authorized person.

Section 403. Repeals. Section 403 repeals various federal laws that have been revised by or would otherwise be inconsistent with the bill and contains technical amendments of other laws. Each of the laws listed in section 403 involves only the Five Nations and Individual Indians.

Section 404. Secretarial Trust Responsibility. Section 404 provides that nothing in the legislation shall be construed to waive, modify, or diminish in any way the trust responsibility of the United States over restricted property.

Section 405. Representation by Attorneys for the Department of the Interior. Section 405 defines the authority of attorneys of the Department of the Interior related to representation of the Secretary and the protection of restricted property.

Section 406. Filing Requirements; Constructive Notice. Section 406 contains requirements for the filing of Secretarial orders or other decisions concerning restricted property for purposes of giving constructive notice to the public. This section allows title examiners to rely on authenticated copies of the documents filed for the purpose of determining marketability of title to property.

Section 407. Publication of Designated Officials. Section 407 requires the Secretary to identify each designee for purposes of the receipt of notices or the performance of any Secretarial duty or function under the bill by publication of notice in the Federal Register.

Section 408. Rule of Construction. Section 408 provides that the bill is not intended to limit or affect the rights of Individual Indians under other federal laws involving trust property acquisitions.

Section 409. Effective Date. Section 409 provides that the legislation shall be effective on January 1, 2003.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section

308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 10, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on the Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2880, the Five Nations Indian Land Reform Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 2880—Five Nations Indian Land Reform Act

Summary: H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Five Nations tribes in Oklahoma (Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw). Restricted land generally refers to certain real property owned by individual Indians of those tribes that is encumbered by certain federal laws. Assuming appropriation of the necessary amounts, CBO estimates that implementing the bill would cost $90 million over the 2003–2007 period to pay for additional administrative costs of the Department of the Interior (DOI). Enacting H.R. 2880 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply.

H.R. 2880 contains no intergovernmental mandates as defined in the Unfunded mandates Reform Act (UMRA). Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. CBO cannot determine the net impact of the bill on these governments.

H.R. 2880 would grant authority to the Secretary of the Interior to partition certain parcels of undivided property held in trust for individual Indians of the Five Nations who own interests in such property. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not favoring the partition. CBO estimates that the cost of the mandate would be well under the annual threshold established in UMRA ($115 million in 2002, adjusted annually for inflation). As part of the partition process,

each owner would receive a parcel or some other form of compensation in proportion to his interest in the property.

Major provisions: H.R. 2880 would make several changes to federal laws concerning restricted land held by individual Indians of the Five Nations. In particular, the bill would:

- Make all restricted property subject to restrictions against alienation, conveyance, lease, mortgage, or creation of liens regardless of the degree of Indian blood of the individual Indian who owns the property;
- Establish requirements enabling individual Indians to use proceeds from the conveyance of restricted property to purchase other property to be held in restricted status;
- Grant the Secretary of the Interior exclusive jurisdiction to approve conveyances, leases, and voluntary partition in-kind of restricted property;
- Grant the Secretary of the Interior exclusive jurisdiction to probate wills or determine heirs of deceased individual Indians and to adjudicate estate actions involving trust or restricted property and securities; and
- Authorize the Secretary of the Interior to administer certain oil and gas leases on restricted lands held by individual Indians.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 2880 is shown in the following table. The cost of this legislation falls within budget functions 450 (community and regional development) and 300 (natural resources and environment).

	By fiscal year in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Additional Administrative Costs for Bureau of Indian Affairs:					
Estimated Authorization Level	8	8	8	8	8
Estimated Outlays	6	8	8	8	8
Additional Administrative Costs for Minerals Management Service and Bureau of Land Management:					
Estimated Authorization Level	11	11	11	12	12
Estimated Outlays	6	11	11	12	12
Total Changes:					
Estimated Authorization Level	19	19	19	20	20
Estimated Outlays	20	19	19	20	20

Basis of Estimate: H.R. 2880 would make various changes to the laws that regulate restricted land held by individual Indians of the Muscogee, Seminole, Cherokee, Chickasaw, and Choctaw tribes in Oklahoma. CBO estimates that implementing the bill would cost $90 million over the 2003–2007 period for additional administrative costs to DOI, assuming the appropriation of the necessary amounts. For this estimate, CBO assumes that the bill will be enacted by the end of this fiscal year and that the necessary amounts will be appropriated for each year, beginning with 2003.

Bureau of Indian Affairs

Based on information from the Bureau of Indian Affairs, CBO estimates that it would cost the agency $38 million over the 2003–2007 period for additional salaries and expenses to establish and maintain individual Indian accounts managed by the federal gov-

ernment and to review and make determinations on the additional land transactions that would be under the exclusive jurisdiction of the Secretary of the Interior. Such costs would be subject to future appropriation action. Proceeds from the conveyance or condemnation of restricted Indian property that are held by the Secretary on behalf of individual Indians are not considered budgetary funds. Consequently, CBO estimates that any change in the amounts held in the individual Indian accounts as a result of implementing this bill would have no impact on the federal budget.

Oil and gas royalty management

Under current law, the Secretary of the Interior is responsible for administering oil and gas leases on lands that are held in trust on behalf of Indian tribes. Section 207 of the bill would authorize the Secretary to administer certain oil and gas leases on restricted lands that are not held in trust. Based on information from DOI about the number of leases that would be added under the bill, we estimate that this provision would increase federal spending by $6 million in 2003 and $52 million over the 2003–2007 period, mostly for increased costs to approve leases and audit royalty payments. Enacting the bill would not affect federal income from oil and gas leases.

Pay-as-you-go considerations: None.

Estimated impact on state, local, and tribal governments:

H.R. 2880 contains no intergovernmental mandates as defined in UMRA. Enacting this legislation would involve some costs and some benefits for the state of Oklahoma and for local governments in the state, but these would not be caused by mandates. Specifically, the changes made by this bill could affect the amount of property in some Oklahoma counties that is exempt from local property taxes. Also, by removing jurisdiction over matters regarding restricted property from the Oklahoma courts, this bill probably would reduce the burden now borne by the state and by some of its counties. CBO does not have sufficient data to determine the impact of this bill on those governments. The bill would impose no costs on any other state, local, or tribal government.

The changes made by this bill would affect the tax base of Oklahoma and some of its local governments because most of the restricted property addressed by the bill is exempt from state and local property taxes. We anticipate that, with no change in current law, the amount of property remaining in restricted status would decline over time. Enacting H.R. 2880 probably would slow this decline, and thus result in some loss of state and local tax receipts. Also, it would make it easier for Indians to replace restricted property in one county with restricted property in another county, so it could change the distribution of this property among the affected counties.

H.R. 2880 would transfer jurisdiction for most matters concerning restricted property from state and local courts in Oklahoma to the federal government, and thus would shift some of the burden now borne by these state and local courts. As a result, the state and its counties could realize some savings, which would at least partially offset their losses.

Estimated impact on the private sector: H.R. 2880 would grant authority to the Secretary of the Interior to partition certain par-

cels of undivided property held in trust for individual Indians of the Five Nations, who own interests in such property. Generally, a partition of this type, partition in kind, involves dividing the property into individual parcels and distributing those parcels to each interest owner in proportion to his share in the undivided property. As an alternative, H.R. 2880 would also authorize the Secretary to secure the appropriate deeds from all interest owners to sell all, or a portion of the property, and divide the proceeds from the sale proportionally among the interest owners.

Under the bill, the Secretary would initiate the partition process at the request of at least one of the interest owners. Actual partition of the land would occur only after a period of negotiation between the Secretary and all interest owners, development of a partition plan, and then approval of the partition plan by over half of the interest owners. In the event that the Secretary orders a partition without the consent of each of the property owners, H.R. 2880 would impose a private-sector mandate on those not favoring the partition. CBO estimates that because of the small amount of land involved and the negotiation process required under the bill, the cost of the mandate would be small and well below the annual threshold established in UMRA ($115 million in 2002, adjusted annually for inflation). Although the bill may impose a mandate on certain interest owners, all of the owners involved in such a partition are likely to benefit as property values typically increase when undivided property interests are separated.

Estimate prepared by: Federal Costs: Lanette J. Walker and Megan Carroll; Impact on State, Local, and Tribal Governments: Marjorie Miller; and Impact on the Private Sector; Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any local or tribal law. It does preempt the law of the State of Oklahoma regarding restricted property of Individual Indians of the Five Nations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF AUGUST 11, 1955

(Chapter 716)

AN ACT To extend the period of restrictions on lands belonging to Indians of the Five Civilized Tribes in Oklahoma, and for other purposes.

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

the provisions of section 2 of this Act, the period of restrictions against alienation, lease, mortgage, or other encumbrance of lands belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half degree or more Indian blood, which period was extended to April 26, 1956, by the Act of May 10, 1928 (45 Stat. 495), is hereby extended for the lives of the Indians who own such lands subject to such restrictions on the date of this Act.

[SEC. 2. (a) Any Indian of the Five Civilized Tribes may apply to the Secretary of the Interior for an order removing restrictions. Within ninety days from the date of the application, the Secretary shall either issue the order or disapprove the application. The order shall be issued if in the judgment of the Secretary the applicant has sufficient ability, knowledge, experience, and judgment to enable him, or her, to manage his, or her, business affairs, including the administration, use, investment, and disposition of any property turned over to such person and the income or proceeds therefrom, with such reasonable degree of prudence and wisdom as will be apt to prevent him, or her, from losing such property or the benefits thereof.

[(b) The Secretary of the Interior is authorized and directed to issue, without application, to any Indian of the Five Civilized Tribes, who in the judgment of the Secretary is able to manage his, or her, own affairs, in accordance with the standard specified in subsection (a) of this section, an order removing restrictions that will become effective six months after notice of the order is given to such Indian, unless it is set aside by a county court in accordance with proceedings initiated prior to such time pursuant to subsection (c) of this section. The timely initiation of such proceedings shall stay the effective date of an order until the proceedings are concluded. When the Secretary issues an order pursuant to this subsection, he shall notify the board of county commissioners for the county in which the Indian resides.

[(c) If the Secretary of the Interior disapproves, or fails either to approve or disapprove, an application within the ninety-day period prescribed in subsection (a) of this section, the Indian affected may apply to the county court for the county in which he, or she, resides for an order removing restrictions. If the Secretary issues an order removing restrictions without application therefor in accordance with the provisions of subsection (b) of this section, either the Indian affected or the board of county commissioners may apply to the county court for the county in which the Indian resides for an order setting aside such order. The court shall set a hearing date not less than thirty days from the day it receives the application, and, under rules adopted by the court, notify the board of county commissioners, the welfare departments of the State and county governments, the local representative of the Commissioner of Indian Affairs, and any other persons the court considers appropriate. At the hearing the court shall examine the Indian and may require the persons who appear before the court to give testimony in the matter of the ability of the Indian to manage his, or her, own affairs. The Secretary of the Interior, and the attorney for the county in which such court is located, shall be given an opportunity to appear at such hearings and to participate in the examination of the Indian and other witnesses. The evidence taken at the hearing shall be transcribed and filed of record in the case. In determining

capability, the court shall apply the standard specified in subsection (a) of this section with respect to determinations by the Secretary. If the court finds that the Indian is able to manage his, or her, own affairs, it shall issue an order removing restrictions or deny the application for an order to set aside an order of the Secretary issued without application therefor, as the case may be. If the court does not find that the Indian is able to manage his, or her, own affairs, it shall deny the application for an order removing restrictions, or set aside an order of the Secretary issued without application therefor, as the case may be. The court shall furnish to the Secretary and to the applicant one certified copy of any final order issued by it. Any final order of the court shall be subject to appeal by the applicant, by the Secretary, or by the board of county commissioners in accordance with the probate laws of the State of Oklahoma, except that no appeal bond shall be required in an appeal by the Secretary.

[(d) When an order removing restrictions becomes effective, the Secretary shall cause to be turned over to the applicant full ownership and control of any money and property that is held in trust for him or that is held subject to a restriction against alienation imposed by the United States, issuing, in the case of land, such title document as may be appropriate: *Provided*, That the Secretary may make such provisions as he deems necessary to insure payment of money loaned to any such Indian by the Federal Government or by an Indian tribe: *Provided further*, That nothing herein contained shall abrogate the interest of any lessee or permittee in any lease, contract, or permit that is outstanding when an order removing restrictions becomes effective.

[SEC. 3. Section 23 of the Act of April 26, 1906 (34 Stat. 137), as amended by section 8 of the Act of May 27, 1908 (35 Stat. 312), which expires on April 26, 1956, is continued in force with respect to the restricted properties of Indians of the Five Civilized Tribes as long as such properties remain restricted.

[SEC. 4. Except as provided in section 2 of this Act, nothing in this Act shall be construed to repeal or to limit the application of the Act of August 4, 1947 (61 Stat. 731), the provisions of which shall continue in effect until otherwise provided by Congress.

[SEC. 5. Any existing exemption from taxation that constitutes a vested property right shall continue in force and effect until it terminates by virtue of its own limitations.]

ACT OF AUGUST 4, 1947

(Chapter 458)

AN ACT Relative to restrictions applicable to Indians of the Five Civilized Tribes of Oklahoma, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That all restrictions upon all lands in Oklahoma belonging to members of the Five Civilized Tribes, whether acquired by allotment, inheritance, devise, gift, exchange, partition, or by purchase with restricted funds, of whatever degree of Indian blood, and whether enrolled or unenrolled, shall be, and are hereby, removed at and upon his or her death: *Provided*, (a) That except as provided in subdivision (f)

of this section, no conveyance, including an oil and gas or mineral lease, of any interest in land acquired before or after the date of this Act by an Indian heir or devisee of one-half or more Indian blood, when such interest in land was restricted in the hands of the person from whom such Indian heir or devisee acquired same, shall be valid unless approved in open court by the county court of the county in Oklahoma in which the land is situated; (b) that petition for approval of conveyance shall be set for hearing not less than ten days from date of filing, and notice of hearing thereon, signed by the county judge, reciting the consideration offered and a description of the land shall be given by publication in at least one issue of a newspaper of general circulation in the county where the land is located and written notice of such hearing shall be given to the probate attorney of the district in which the petition is filed at least ten days prior to the date on which the petition is to be heard. The grantor shall be present at said hearing and examined in open court before such conveyance shall be approved, unless the grantor and the probate attorney shall consent in writing that such hearing may be had and such conveyance approved in the absence of the grantor, and the court must be satisfied that the consideration has been paid in full. Proceedings for approval of conveyances by restricted heirs or devisees under this section shall not be removable to the Federal court; (c) the evidence taken at the hearing shall be transcribed and filed of record in the case, the expense of which, including attorney fees and court costs, must be borne by the grantee. The court in its discretion, when deemed for the best interest of the Indian, may approve the conveyance conditionally, or may withhold approval; (d) that at said hearing competitive bidding may be had and a conveyance may be confirmed in the name of the person offering the highest bid therefor or when deemed necessary the court may set the petition for further hearing; (e) that the probate attorney shall have the right to appeal from any order approving conveyances to the district court of the county in which the proceedings are conducted within the time and in the manner provided by the laws of the State of Oklahoma in cases of appeal in probate matters generally, except that no appeal bond shall be required; (f) that sales of the interests of minor and incompetent persons shall be made in conformity with the laws of the State of Oklahoma. Notice of such sale shall be given to the probate attorney of the district in which the petition is filed at least ten days prior to the date on which the petition for sale is to be heard; (g) that nothing contained in this section shall be construed to modify or repeal the Act of February 11, 1936 (49 Stat. 1135), relating to leases for farming and grazing purposes.

[SEC. 2. In determining the quantum of Indian blood of any Indian heir or devisee, the final rolls of the Five Civilized Tribes as to such heir or devisee, if enrolled, shall be conclusive of his or her quantum of Indian blood. If unenrolled, his or her degree of Indian blood shall be computed from the nearest enrolled paternal and maternal lineal ancestors of Indian blood enrolled on the final rolls of the Five Civilized Tribes.

[SEC. 3. (a) The State courts of Oklahoma shall have exclusive jurisdiction of all guardianship matters affecting Indians of the Five Civilized Tribes, of all proceedings to administer estates or to probate the wills of deceased Indians of the Five Civilized Tribes,

and of all actions to determine heirs arising under section 1 of the Act of June 14, 1918 (40 Stat. 606).

[(b) The United States shall not be deemed to be a necessary or indispensable party to any action or proceeding of which the State courts of Oklahoma are given exclusive jurisdiction by the provisions of subsection (a) of this section, and the final judgment rendered in any such action or proceeding shall bind the United States and the parties thereto to the same extent as though no Indian property or question were involved: *Provided*, That written notice of the pendency of any such action or proceeding shall be served on the Superintendent for the Five Civilized Tribes within ten days of the filing of the first pleading in said action or proceeding. Such notice shall be served by the party or parties causing the first pleading to be filed. Section 3 of the Act of April 12, 1926 (44 Stat. 239), shall have no application to actions or proceedings covered by the provisions of subsection (a) of this section.

[(c) No action or proceeding in which notice has been served on the Superintendent for the Five Civilized Tribes pursuant to the provisions of section 3 of the Act of April 12, 1926 (44 Stat. 239), shall be removed to a United States district court except upon the recommendation of the Secretary of the Interior or his duly authorized representative. The United States shall have the right to appeal from any order of remand entered in any case removed to a United States district court pursuant to the provisions of the Act of April 12, 1926 (44 Stat. 239).

[(d) Nothing contained in this section shall be construed to limit any right of appeal.

[SEC. 4. That the attorneys provided for under the Act of May 27, 1908 (35 Stat. 312), are authorized to appear and represent any restricted member of the Five Civilized Tribes in Oklahoma before any of the courts of the State of Oklahoma in any matter in which the said restricted Indian may have an interest.

[SEC. 5. That all funds and securities now held by, or which may hereafter come under the supervision of the Secretary of the Interior, belonging to and only so long as belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, are hereby declared to be restricted and shall remain subject to the jurisdiction of said Secretary until otherwise provided by Congress, subject to expenditure in the meantime for the use and benefit of the individual Indians to whom such funds and securities belong, under such rules and regulations as said Secretary may prescribe.]

SEC. 6. (a) * * *

* * * * * * *

(c) Any interest in restricted and tax-exempt lands acquired by descent, devise, gift, exchange, partition, or purchase with restricted funds, after the date of this Act by an Indian of the Five Civilized Tribes of one-half or more Indian blood shall continue to be tax-exempt during the restricted period: *Provided*, That the tax-exempt lands of any such heir, devisee, donee, or grantee, whether acquired by allotment, descent, devise, gift, exchange, partition, or purchase with restricted funds, shall not exceed one hundred and sixty acres in the aggregate: *Provided further*, That nothing contained in this subsection shall be construed to terminate or abridge any right to tax exemption to which any Indian was entitled on the

effective date of this Act*: Provided further, That any interest in restricted and tax-exempt lands acquired by descent, devise, gift, exchange, partition, conveyance, or purchase with restricted funds after the date of the enactment of the Five Nations Indian Land Reform Act by an Indian of the Five Civilized Tribes shall continue to be tax-exempt during the restricted period*.

* * * * * * *

(e) [On or before the 1st day of January of each year the Secretary of the Interior shall cause to be filed with the county treasurer of each county in the State of Oklahoma where restricted lands of members of the Five Civilized Tribes are situated a list of the nontaxable lands that have been sold during the preceding year.] Before a county treasurer shall proceed to sell any restricted land for delinquent taxes, it must appear from the records of the office of the county treasurer that a list of the tracts included in the proposed sales of land for delinquent taxes in said county has been sent by registered mail to the Superintendent for the Five Civilized Tribes at Muskogee, Oklahoma, at least ninety days before the date fixed by the laws of the State of Oklahoma for sales of land for delinquent taxes.

[SEC. 7. All removals of restrictions and approvals of deeds heretofore made by the Secretary of the Interior, regardless of whether applications were made therefor by the Indian owner, are hereby validated and confirmed.

[SEC. 8. That no tract of land, nor any interest therein, which is hereafter purchased by the Secretary of the Interior with restricted funds by or for an Indian or Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, shall be construed to be restricted unless the deed conveying same shows upon its face that such purchase was made with restricted funds.

[SEC. 9. That all conveyances, including oil and gas or mineral leases, by Indians of the Five Civilized Tribes in Oklahoma of lands acquired by inheritance or devise, made after the effective date of the Act of January 27, 1933, and prior to the effective date of this Act, that were approved either by a county court in Oklahoma or by the Secretary of the Interior are hereby validated and confirmed: *Provided*, That if any such conveyance is subject to attack upon grounds other than sufficiency of approval or lack of approval thereof, such conveyance shall not be affected by this Act.]

* * * * * * *

[SEC. 11. All restricted lands of the Five Civilized Tribes are hereby made subject to all oil and gas conservation laws of Oklahoma: *Provided*, That no order of the Corporation Commission affecting restricted Indian land shall be valid as to such land until submitted to and approved by the Secretary of the Interior or his duly authorized representative.

[SEC. 12. Sections 1 and 8 of the Act of January 27, 1933 (47 Stat. 777), are hereby repealed.

[SEC. 13. All Acts and parts of Acts in conflict herewith are hereby repealed.]

ACT OF DECEMBER 24, 1942

(Chapter 813)

AN ACT To provide for the probate and distribution of restricted estates not exceeding $2,500 in value of deceased Indians of the Five Civilized Tribes in Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That exclusive jurisdiction is hereby conferred on the Secretary of the Interior to determine the heirs after notice and hearing under such rules and regulations as he may prescribe, and to probate the estate of any deceased restricted Indian, enrolled or unenrolled, of the Five Civilized Tribes of Oklahoma, whenever the restricted estate consists only of funds or securities under the control of the Department of the Interior of an aggregate value not exceeding $2,500: *Provided*, That where such decedent died prior to the effective date of this Act, the distribution of such funds and securities, including the decedent's share of any tribal funds, shall be made in accordance with the statute of descent and distribution applicable at the date of death: *And provided further*, That where the decedent dies subsequently to the effective date of this Act distribution of all such funds and securities, including tribal funds aforesaid, shall be effected in accordance with the statute of descent and distribution of the State of Oklahoma.]

ACT OF FEBRUARY 11, 1936

(Chapter 50)

AN ACT To provide for the leasing of restricted Indian lands of Indians of the Five Civilized Tribes in Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That from and after thirty days from the date of approval of this Act the restricted lands belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian blood, enrolled or unenrolled, may be leased for periods of not to exceed five years for farming and grazing purposes, under such rules and regulations as the Secretary of the Interior may prescribe and not otherwise. Such leases shall be made by the owner or owners of such lands, if adults, subject to approval by the superintendent or other official in charge of the Five Civilized Tribes Agency, and by such superintendent or other official in charge of said agency in cases of minors and of Indians who are non compos mentis.]

ACT OF JANUARY 27, 1933

(Chapter 23)

AN ACT Relative to restrictions applicable to Indians of the Five Civilized Tribes in Oklahoma.

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

[SEC. 2. The Secretary of the Interior be, and he is hereby, authorized to permit, in his discretion and subject to his approval,

any Indian of the Five Civilized Tribes, over the age of twenty-one years, having restricted funds or other property subject to the supervision of the Secretary of the Interior, to create and establish, out of the restricted funds or other property, trusts for the benefits of such Indian, his heirs, or other beneficiaries designated by him, such trusts to be created by contracts or agreements by and between the Indian and incorporated trust companies or such banks as may be authorized by law to act as fiduciaries or trustees: *Provided*, That no trust company or bank shall be trustee in any trust created under this Act which has paid or promised to pay to any person other than an officer or employee on the regular pay roll thereof any charge, fee, commission, or remuneration for any service or influence in securing or attempting to secure for it the trusteeship in any trust: *Provided further*, That all trust agreements or contracts made or entered into prior to the date of approval of this Act, and all contracts or agreements made or entered into prior to said date providing for or looking to the creation of such trust or trusts shall be null and void unless such contracts or agreements shall have heretofore been approved by the Secretary of the Interior.

[SEC. 3. The Secretary of the Interior be, and he is hereby, authorized, upon the execution and approval of any trust agreement or contract as herein provided, to transfer, or cause to be transferred, to the trustee, from the individual restricted or trust funds or other restricted property of the respective Indian, the funds or property required by the terms of the approved agreement, and the funds or property so transferred shall in each case be held by the trustee subject to the terms and conditions of the trust agreement or contract creating the trust, separate and apart from all assets, investments or trust estates in the hands of said trustee.

[SEC. 4. None of the restrictions upon the funds or property transferred under the terms of any such trust agreement or contract shall be in any manner released during the continuance of the restriction period now or hereafter provided by law, except as provided by the terms of such agreement or contract, and neither the corpus of said trust nor the income derived therefrom shall, during the restriction period provided by law, be subject to alienation, or encumbrance, nor to the satisfaction of any debt or other liability of any beneficiary of such trust during the said restriction period. The trustee shall render an annual accounting to the Secretary of the Interior and to the beneficiary or beneficiaries to whom the income for the preceding year, or any part thereof, was due and payable.

[SEC. 5. Trust agreements or contracts executed and approved as herein provided shall be irrevocable except with the consent and approval of the Secretary of the Interior: *Provided*, That if any trust, trust agreement, or contract be annulled, canceled, or set aside by order of any court, or otherwise, the principal or corpus of the trust estate, with all accrued and unpaid interest, shall be returned to the Secretary of the Interior as restricted individual Indian property.

[SEC. 6. If, after the creation and approval of any trust, it is found that said trust was procured in violation of any of the provisions of this Act, or that the trustee designated therein has failed or refused to properly perform the duties imposed thereby, in ac-

cordance with the terms, provisions and requirements of said trust agreement, it shall be the duty of the Attorney General to institute appropriate proceedings in the Federal courts for the cancellation and annulment of said trust by court decree, and upon decree of annulment and cancellation, which shall be at the cost of the trustee, and after accounting, but without the allowance of any fee, charge, or commission for any services rendered by the trustee, all funds held by the trustee shall be paid to the Secretary of the Interior as restricted funds, and the Federal courts are hereby given exclusive jurisdiction of all actions involving an accounting under any trust created under the provisions of this Act, and all actions to cancel, annual, or set aside any trust entered into pursuant to this Act.

[SEC. 7. The Secretary of the Interior is hereby authorized to prescribe such rules and regulations as he may deem necessary for the proper administration of this Act. He shall fix and determine the value of each trust, revising such valuation from time to time as he may deem necessary, and, for the faithful performance of each trust agreement or contract, shall require corporate surety company bond equal to the value of the respective trust so fixed and determined, or the deposit of securities of the United States Government equal to such amount: *Provided, however*, That trusts created under the provisions of this Act shall not extend beyond a period twenty-one years after the death of the last survivor of the named beneficiaries in the respective trust agreement.]

ACT OF MAY 10, 1928

(Chapter 517)

CHAP. 517.—An Act To extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That the restrictions against the alienation, lease, mortgage, or other encumbrance of the lands allotted to members of the Five Civilized Tribes in Oklahoma, enrolled as of one-half or more Indian blood, be, and they are hereby, extended for an additional period of twenty-five years commencing on April 26, 1931: *Provided*, That the Secretary of the Interior shall have the authority to remove the restrictions, upon the applications of the Indian owners of the land, and may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe.

[SEC. 2. That the provisions of section 9 of the Act of May 27, 1908 (Thirty-fifth Statutes at Large, page 312), entitled "An Act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," as amended by section 1 of the Act of April 12, 1926 (Forty-fourth Statutes at Large, page 239), entitled "An Act to amend section 9 of the Act of May 27, 1908 (Thirty-fifth Statutes at Large, page 312), and for putting in force, in reference to suits involving Indian titles, the statutes of limitations of the State of Oklahoma, and providing for the United States to join in certain actions, and for making judgments binding on all parties, and for other purposes," be, and are hereby,

extended and continued in force for a period of twenty-five years from and including April 26, 1931, except, however, the provisions thereof which read as follows:

"*Provided further*, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March 4, 1906, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior for the use and support of such issue, during their life or lives, until April 26, 1931; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from restrictions; if this be not done, or in the event the issue hereinabove provided for die before April 26, 1931, the lands shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: *Provided*, That the word "issue," as used in this section, shall be construed to mean child or children: *Provided further*, That the provisions of section 23 of the Act of April 26, 1906, as amended by this Act, are hereby made applicable to all wills executed under this section:"

which quoted provisions be, and the same are, repealed, effective April 26, 1931: *Provided further*, That the provisions of section 23 of the Act of Congress approved April 26, 1906 (Thirty-fourth Statutes at Large, page 137), as amended by the provisions of section 8 of the Act of Congress approved May 27, 1908 (Thirty-fifth Statutes at Large, page 312), be, and the same are hereby, continued in force and effect until April 26, 1956.]

* * * * * * *

[SEC. 4. That on and after April 26, 1931, the allotted, inherited, and devised restricted lands of each Indian of the Five Civilized Tribes in excess of one hundred and sixty acres shall be subject to taxation by the State of Oklahoma under and in accordance with the laws of that State, and in all respects as unrestricted and other lands: *Provided*, That the Indian owner of restricted land, if an adult and not legally incompetent, shall select from his restricted land a tract or tracts, not exceeding in the aggregate one hundred and sixty acres, to remain exempt from taxation, and shall file with the Superintendent of the Five Civilized Tribes a certificate designating and describing the tract or tracts so selected: *Provided further*, That in cases where such Indian fails, within two years from date hereof, to file such certificate, and in cases where the Indian owner is a minor or otherwise legally incompetent, the selection shall be made and certificate prepared by the Superintendent for the Five Civilized Tribes; and such certificate, whether by the Indian or by the Superintendent for the Five Civilized Tribes, shall be subject to approval by the Secretary of the Interior; and, when approved by the Secretary of the Interior, shall be recorded in the office of the Superintendent for the Five Civilized Tribes, and in the county records of the county in which the land is situated; and said lands, designated and described in the approved certificates so recorded, shall remain exempt from taxation while the title remains in the Indian designated in such approved and recorded certificate, or in any full-blood Indian heir or devisee of the land: *Provided*, That the tax exemption shall not extend beyond the period of restrictions provided for in this Act: *And provided further*, That

the tax-exempt land of any such Indian allottee, heir, or devisee shall not at any time exceed one hundred and sixty acres.

[SEC. 5. That this Act shall not be construed to reimpose restrictions heretofore or hereafter removed by the Secretary of the Interior or by operation of law, nor to exempt from taxation any lands which are subject to taxation under existing law.]

ACT OF APRIL 12, 1926

(Chapter 115)

CHAP. 115.—An Act To amend section 9 of the Act of May 27, 1908 (Thirty-fifth Statutes at Large, page 312), and for putting in force, in reference to suits involving Indian titles, the statutes of limitations of the State of Oklahoma, and providing for the United States to join in certain actions, and for making judgments binding on all parties, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That section 9 of the Act of May 27, 1908 (Thirty-fifth Statutes at Large, page 312), entitled "An Act for the removal of restrictions on part of the lands of allottees of the Five Civilized Tribes, and for other purposes," be, and the same is hereby, amended to read as follows:

["SEC. 9. The death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That hereafter no conveyance by any full-blood Indian of the Five Civilized Tribes of any interest in lands restricted by section 1 of this Act acquired by inheritance or devise from an allottee of such lands shall be valid unless approved by the county court having jurisdiction of the settlement of the estate of the deceased allottee or testator: *Provided further*, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March 4, 1906, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior for the use and support of such issue, during their life or lives, until April 26, 1931; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from restrictions; if this be not done, or in the event the issue hereinabove provided for die before April 26, 1931, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: *Provided*, That the word "issue" as used in this section shall be construed to mean child or children: *Provided further*, That the provisions of section 23 of the Act of April 26, 1906, as amended by this Act, are hereby made applicable to all wills executed under this section: *And provided further*, That all orders of the county court approving such conveyances of such land shall be in open court and shall be conclusive as to the jurisdiction of such court to approve such deed: *Provided*, That all conveyances by full-blood Indian heirs heretofore approved by the county courts shall be deemed and held to conclusively establish the jurisdiction of such courts to approve the same except where more than one such conveyance of the same interest in the same land has been made by the same Indian to different grantees and approved by county courts of different counties prior to the passage of this Act, and ex-

cept that this proviso shall not affect and may not be pleaded in any suit brought before the approval of this Act."

[SEC. 2. The statutes of limitations of the State of Oklahoma are hereby made and declared to be applicable to and shall have full force and effect against all restricted Indians of the Five Civilized Tribes, and against the heirs or grantees of any such Indians, and against all rights and causes of action heretofore accrued or hereafter accruing to any such Indians or their heirs or grantees, to the same extent and effect and in the same manner as in the case of any other citizen of the State of Oklahoma, and may be pleaded in bar of any action brought by or on behalf of any such Indian, his or her heirs or grantees, either in his own behalf or by the Government of the United States, or by any other party for his or her benefit, to the same extent as though such action were brought by or on behalf of any other citizen of said State: *Provided*, That no cause of action which heretofore shall have accrued to any such Indian shall be barred prior to the expiration of a period of two years from and after the approval of this Act, even though the full statutory period of limitation shall already have run or shall expire during said two years' period, and any such restricted Indian, if competent to sue, or his guardian, or the United States in his behalf, may sue upon any such cause of action during such two years' period free from any bar of the statutes of limitations.

[SEC. 3. Any one or more of the parties to a suit in the United States courts in the State of Oklahoma or in the State courts of Oklahoma to which a restricted member of the Five Civilized Tribes in Oklahoma, or the restricted heirs or grantees of such Indian are parties, as plaintiff, defendant, or intervenor, and claiming or entitled to claim title to or an interest in lands allotted to a citizen of the Five Civilized Tribes or the proceeds, issues, rents, and profits derived from the same, may serve written notice of the pendency of such suit upon the Superintendent for the Five Civilized Tribes, and the United States may appear in said cause within twenty days thereafter, or within such extended time as the trial court in its discretion may permit, and after such appearance or the expiration of said twenty days or any extension thereof the proceedings and judgment in said cause shall bind the United States and the parties thereto to the same extent as though no Indian land or question were involved. Duplicate original of the notice shall be filed with the clerk of the court in which the action is pending and the notice shall be served on the Superintendent for the Five Civilized Tribes or, in case of his absence from his principal office, upon one of his assistants, and shall be served within ten days after the general appearance in the case of the party who causes the notice to be issued. The notice shall be accompanied by a certified copy of all pleadings on file in the suit at the time of the filing of the duplicate original notice with the clerk and shall be signed by the party to the action or his or her counsel of record and shall be served by the United States marshal and due return of service made thereon, showing date of receipt and service of notice. If notice is not served within the time herein specified, or if return of service thereof be not made within the time allowed by law for the return of service of summons, alias notices may be given until service and return of notice is had and in no event shall the United States be bound unless written notice is had as herein

specified: *Provided*, That within twenty days after the service of such notice on the Superintendent for the Five Civilized Tribes or within such extended time as the trial court in its discretion may permit the United States may be, and hereby is, given the right to remove any such suit pending in a State court to the United States district court by filing in such suit in the State court a petition for the removal of such suit into the said United States district court, to be held in the district where such suit is pending, together with the certified copy of the pleadings in such suit served on the Superintendent for the Five Civilized Tribes as hereinbefore provided. It shall then be the duty of the State court to accept such petition and proceed no further in said suit. The said copy shall be entered in the said district court of the United States within twenty days after the filing of the petition for removal and the defendants and intervenors in said suit shall within twenty days thereafter plead, answer, or demur to the declaration or complaint in said cause, and the cause shall then proceed in the same manner as if it had been originally commenced in said district court, and such court is hereby given jurisdiction to hear and determine said suit, and its judgment may be reviewed by certiorari, appeal, or writ of error in like manner as if the suit had been originally brought in said district court.]

ACT OF JUNE 14, 1918

(Chapter 101)

CHAP. 101.—An Act To provide for a determination of heirship in cases of deceased members of the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Tribes of Indians in Oklahoma, conferring jurisdiction upon district courts to partition lands belonging to full-blood heirs of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That a determination of the question of fact as to who are the heirs of any deceased citizen allottee of the Five Civilized Tribes of Indians who may die or may have heretofore died, leaving restricted heirs, by the probate court of the State of Oklahoma having jurisdiction to settle the estate of said deceased, conducted in the manner provided by the laws of said State for the determination of heirship in closing up the estates of deceased persons, shall be conclusive of said question: *Provided,* That an appeal may be taken in the manner and to the court provided by law, in cases of appeal in probate matters generally: *Provided further,* That where the time limited by the laws of said State for the institution of administration proceedings has elapsed without their institution, as well as in cases where there exists no lawful ground for the institution of administration proceedings in said courts, a petition may be filed therein having for its object a determination of such heirship and the case shall proceed in all respects as if administration proceedings upon other proper grounds had been regularly begun, but this proviso shall not be construed to reopen the question of the determination of an heirship already ascertained by competent legal authority under existing laws: *Provided further,* That said petition shall be verified, and in all cases arising hereunder service by pub-

lication may be had on all unknown heirs, the service to be in accordance with the method of serving nonresident defendants in civil suits in the district courts of said State; and if any person so served by publication does not appear and move to be heard within six months from the date of the final order, he shall be concluded equally with parties personally served or voluntarily appearing.

[SEC. 2. That the lands of full-blood members of any of the Five Civilized Tribes are hereby made subject to the laws of the State of Oklahoma, providing for the partition of real estate. Any land allotted in such proceedings to a full-blood Indian, or conveyed to him upon his election to take the same at the appraisement, shall remain subject to all restrictions upon alienation and taxation obtaining prior to such partition. In case of a sale under any decree, or partition, the conveyance thereunder shall operate to relieve the land described of all restrictions of every character.]

ACT OF MAY 27, 1908

(Chapter 199)

CHAP. 199.—An Act For the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That from and after sixty days from the date of this Act the status of the lands allotted heretofore or hereafter to allottees of the Five Civilized Tribes shall, as regards restrictions on alienation or incumbrance, be as follows: All lands, including homesteads, of said allottees enrolled as intermarried whites, as freedmen, and as mixed-blood Indians having less than half Indian blood including minors shall be free from all restrictions. All lands, except homesteads, of said allottees enrolled as mixed-blood Indians having half or more than half and less than three-quarters Indian blood shall be free from all restrictions. All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, and all allotted lands of enrolled full-bloods, and enrolled mixed-bloods of three-quarters or more Indian blood, including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney, or any other incumbrance prior to April twenty-sixth, nineteen hundred and thirty-one, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. The Secretary of the Interior shall not be prohibited by this Act from continuing to remove restrictions as heretofore, and nothing herein shall be construed to impose restrictions removed from land by or under any law prior to the passage of this Act. No restrictions of alienation shall be construed to prevent the exercise of the right of eminent domain in condemning rights of way for public purposes over allotted lands, and for such purposes sections thirteen to twenty-three inclusive, of an act entitled "An act to grant the right of way through Oklahoma Territory and the Indian Territory to the Enid and Anadarko Railway Company, and for other purposes," approved February twenty-eighth, nineteen hundred and two (Thirty-

second Statutes at Large, page forty-three), are hereby continued in force in the State of Oklahoma.

[SEC. 2. That all lands other than homesteads allotted to members of the Five Civilized Tribes from which restrictions have not been removed may be leased by the allottee if an adult, or by guardian or curator under order of the proper probate court if a minor or incompetent, for a period not to exceed five years, without the privilege of renewal: *Provided*, That leases of restricted lands for oil, gas or other mining purposes, leases of restricted homesteads for more than one year, and leases of restricted lands for periods of more than five years, may be made, with the approval of the Secretary of the Interior, under rules and regulations provided by the Secretary of the Interior, and not otherwise: *And provided further*, That the jurisdiction of the probate courts of the State of Oklahoma over lands of minors and incompetents shall be subject to the foregoing provisions, and the term minor or minors, as used in this Act, shall include all males under the age of twenty-one years and all females under the age of eighteen years.

[SEC. 3. That the rolls of citizenship and of freedmen of the Five Civilized Tribes approved by the Secretary of the Interior shall be conclusive evidence as to the quantum of Indian blood of any enrolled citizen or freedman of said tribes and of no other persons to determine questions arising under this Act and the enrollment records of the Commissioner to the Five Civilized Tribes shall hereafter be conclusive evidence as to the age of said citizen or freedman.

[That no oil, gas, or other mineral lease entered into by any of said allottees prior to the removal of restrictions requiring the approval of the Secretary of the Interior shall be rendered invalid by this Act, but the same shall be subject to the approval of the Secretary of the Interior as if this Act had not been passed: *Provided*, That the owner or owners of any allotted land from which restrictions are removed by this Act, or have been removed by previous Acts of Congress, or by the Secretary of the Interior, or may hereafter be removed under and by authority of any Act of Congress, shall have the power to cancel and annul any oil, gas, or mineral lease on said land whenever the owner or owners of said land and the owner or owners of the lease thereon agree in writing to terminate said lease and file with the Secretary of the Interior, or his designated agent, a true copy of the agreement in writing canceling said lease, which said agreement shall be executed and acknowledged by the parties thereto in the manner required by the laws of Oklahoma for the execution and acknowledgment of deeds, and the same shall be recorded in the county where the land is situate.]

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[SEC. 6. That the persons and property of minor allottees of the Five Civilized Tribes shall, except as otherwise specifically provided by law, be subject to the jurisdiction of the probate courts of the State of Oklahoma. The Secretary of the Interior is hereby empowered, under rules and regulations to be prescribed by him, to appoint such local representatives within the State of Oklahoma who shall be citizens of that State or now domiciled therein as he may deem necessary to inquire into and investigate the conduct of guardians or curators having in charge the estates of such minors,

and whenever such representative or representatives of the Secretary of the Interior shall be of opinion that the estate of any minor is not being properly cared for by the guardian or curator, or that the same is in any manner being dissipated or wasted or being permitted to deteriorate in value by reason of the negligence or carelessness or incompetency of the guardian or curator, said representative or representatives of the Secretary of the Interior shall have power and it shall be their duty to report said matter in full to the proper probate court and take the necessary steps to have such matter fully investigated, and go to the further extent of prosecuting any necessary remedy, either civil or criminal, or both, to preserve the property and protect the interests of said minor allottees; and it shall be the further duty of such representative or representatives to make full and complete reports to the Secretary of the Interior. All such reports, either to the Secretary of the Interior or to the proper probate court, shall become public records and subject to the inspection and examination of the public, and the necessary court fees shall be allowed against the estates of said minors. The probate courts may, in their discretion, appoint any such representative of the Secretary of the Interior as guardian or curator for such minors, without fee or charge.

[And said representatives of the Secretary of the Interior are further authorized, and it is made their duty, to counsel and advise all allottees, adult or minor, having restricted lands of all of their legal rights with reference to their restricted lands, without charge, and to advise them in the preparation of all leases authorized by law to be made, and at the request of any allottee having restricted land he shall, without charge, except the necessary court and recording fees and expenses, if any, in the name of the allottee, take such steps as may be necessary, including the bringing of any suit or suits and the prosecution and appeal thereof, to cancel and annul any deed, conveyance, mortgage, lease, contract to sell, power of attorney, or any other encumbrance of any kind or character, made or attempted to be made or executed in violation of this Act or any other Act of Congress, and to take all steps necessary to assist said allottees in acquiring and retaining possession of their restricted lands.

[Supplemental to the funds appropriated and available for expenses connected with the affairs of the Five Civilized Tribes, there is hereby appropriated, for the salaries and expenses arising under this section, out of any funds in the Treasury not otherwise appropriated, the sum of ninety thousand dollars, to be available immediately, and until July first, nineteen hundred and nine, for expenditure under the direction of the Secretary of the Interior: *Provided*, That no restricted lands of living minors shall be sold or encumbered, except by leases authorized by law, by order of the court or otherwise.

[And there is hereby further appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available and available until expended as the Attorney-General may direct, the sum of fifty thousand dollars, to be used in the payment of necessary expenses incident to any suits brought at the request of the Secretary of the Interior in the eastern judicial district of Oklahoma: *Provided*, That the sum of ten thousand dollars of the above amount, or so much thereof as may be necessary, may be ex-

pended in the prosecution of cases in the western judicial district of Oklahoma.

[Any suit brought by the authority of the Secretary of the Interior against the vendee or mortgagee of a town lot, against whom the Secretary of the Interior may find upon investigation no fraud has been established, may be dismissed and the title quieted upon payment of the full balance due on the original appraisement of such lot: *Provided*, That such investigation must be concluded within six months after the passage of this Act.

[Nothing in this act shall be construed as a denial of the right of the United States to take such steps as may be necessary, including the bringing of any suit and the prosecution and appeal thereof, to acquire or retain possession of restricted Indian lands, or to remove cloud therefrom, or clear title to the same, in cases where deeds, leases or contracts of any other kind or character whatsoever have been or shall be made contrary to law with respect to such lands prior to the removal therefrom of restrictions upon the alienation thereof; such suits to be brought on the recommendation of the Secretary of the Interior, without costs or charges to the allottees, the necessary expenses incurred in so doing to be defrayed from the money appropriated by this act.

[SEC. 7. That no contest shall be instituted after sixty days from the date of the selection of any allotment hereafter made, nor after ninety days from the approval of this Act in case of selections made prior thereto by or for any allottee of the Five Civilized Tribes, and, as early thereafter as practicable, deed or patent shall issue therefor.

[SEC. 8. That section twenty-three of an Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, is hereby amended by adding at the end of said section, the words "or a judge of a county court of the State of Oklahoma."

[SEC. 9. The death of any allottee of the Five Civilized Tribes shall operate to remove all restrictions upon the alienation of said allottee's land: *Provided*, That hereafter no conveyance by any full-blood Indian of the Five Civilized Tribes of any interest in lands restricted by section 1 of this Act acquired by inheritance or devise from an allottee of such lands shall be valid unless approved by the county court having jurisdiction of the settlement of the estate of the deceased allottee or testator: *Provided further*, That if any member of the Five Civilized Tribes of one-half or more Indian blood shall die leaving issue surviving, born since March 4, 1906, the homestead of such deceased allottee shall remain inalienable, unless restrictions against alienation are removed therefrom by the Secretary of the Interior for the use and support of such issue, during their life or lives, until April 26, 1931; but if no such issue survive, then such allottee, if an adult, may dispose of his homestead by will free from restrictions; if this be not done, or in the event the issue hereinabove provided for die before April 26, 1931, the land shall then descend to the heirs, according to the laws of descent and distribution of the State of Oklahoma, free from all restrictions: *Provided*, That the word "issue" as used in this section shall be construed to mean child or children: *Provided further*, That the provisions of section 23 of the Act of April 26, 1906, as amend-

ed by this Act, are hereby made applicable to all wills executed under this section: *And provided further*, That all orders of the county court approving such conveyances of such land shall be in open court and shall be conclusive as to the jurisdiction of such court to approve such deed: *Provided*, That all conveyances by full-blood Indian heirs heretofore approved by the county courts shall be deemed and held to conclusively establish the jurisdiction of such courts to approve the same except where more than one such conveyance of the same interest in the same land has been made by the same Indian to different grantees and approved by county courts of different counties prior to the passage of this Act, and except that this proviso shall not affect and may not be pleaded in any suit brought before the approval of this Act.

[SEC. 10. That the Secretary of the Interior is hereby authorized and directed to pay out of any moneys in the Treasury of the United States, belonging to the Choctaw or Chickasaw nations respectively, any and all outstanding general and school warrants duly signed by the auditor of public accounts of the Choctaw and Chickasaw nations, and drawn on the national treasurers thereof prior to January first, nineteen hundred and seven, with six per cent interest per annum from the respective dates of said warrants: *Provided*, That said warrants be presented to the United States Indian agent at the Union Agency, Muskogee, Oklahoma, within sixty days from the passage of this act, together with the affidavits of the respective holders of said warrants that they purchased the same in good faith for a valuable consideration, and had no reason to suspect fraud in the issuance of said warrants: *Provided further*, That such warrants remaining in the hands of the original payee shall be paid by said Secretary when it is shown that the services for which said warrants were issued were actually performed by said payee.

[SEC. 11. That all royalties arising on and after July first, nineteen hundred and eight, from mineral leases of allotted Seminole lands heretofore or hereafter made, which are subject to the supervision of the Secretary of the Interior, shall be paid to the United States Indian agent, Union Agency, for the benefit of the Indian lessor or his proper representative to whom such royalties shall thereafter belong; and no such lease shall be made after said date except with the allottee or owner of the land: *Provided*, That the interest of the Seminole Nation in leases or royalties arising thereunder on all allotted lands shall cease on June thirtieth, nineteen hundred and eight.

[SEC. 12. That all records pertaining to the allotment of lands of the Five Civilized Tribes shall be finally deposited in the office of the United States Indian agent, Union Agency, when and as the Secretary of the Interior shall determine such action shall be taken, and there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to be immediately available as the Secretary of the Interior may direct, the sum of fifteen thousand dollars, or so much thereof as may be necessary to enable the Secretary of the Interior to furnish the various counties of the State of Oklahoma certified copies of such portions of said records as affect title to lands in the respective counties.]

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ACT OF APRIL 26, 1906

(Chapter 1876)

CHAP. 1876.—An Act To provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes.

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[SEC. 6. That if the principal chief of the Choctaw, Cherokee, Creek, or Seminole tribe, or the governor of the Chickasaw tribe shall refuse or neglect to perform the duties devolving upon him, he may be removed from office by the President of the United States, or if any such executive become permanently disabled, the office may be declared vacant by the President of the United States, who may fill any vacancy arising from removal, disability or death of the incumbent, by appointment of a citizen by blood of the tribe.

[If any such executive shall fail, refuse or neglect, for thirty days after notice that any instrument is ready for his signature, to appear at a place to be designated by the Secretary of the Interior and execute the same, such instrument may be approved by the Secretary of the Interior without such execution, and when so approved and recorded shall convey legal title, and such approval shall be conclusive evidence that such executive or chief refused or neglected after notice to execute such instrument.

[*Provided*, That the principal chief of the Seminole Nation is hereby authorized to execute the deeds to allottees in the Seminole Nation prior to the time when the Seminole government shall cease to exist.]

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[SEC. 11. That all revenues of whatever character accruing to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, whether before or after dissolution of the tribal governments, shall, after the approval hereof, be collected by an officer appointed by the Secretary of the Interior under rules and regulations to be prescribed by him; and he shall cause to be paid all lawful claims against said tribes which may have been contracted after July first, nineteen hundred and two, or for which warrants have been regularly issued, such payments to be made from any funds in the United States Treasury belonging to said tribes. All such claims arising before dissolution of the tribal governments shall be presented to the Secretary of the Interior within six months after such dissolution, and he shall make all rules and regulations necessary to carry this provision into effect and shall pay all expenses incident to the investigation of the validity of such claims or indebtedness out of the tribal funds: *Provided*, That all taxes accruing under tribal laws or regulations of the Secretary of the Interior shall be abolished from and after December thirty-first, nineteen hundred and five, but this provision shall not prevent the collection after that date nor after dissolution of the tribal government of all such taxes due up to and including December thirty-first, nineteen hundred and five, and all such taxes levied and collected after the thirty-first day of December, nineteen hundred and five, shall be refunded.

[Upon dissolution of the tribal governments, every officer, member, or representative of said tribes, respectively, having in his possession, custody, or control any money or other property of any

tribe shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money of the tribe in his possession, custody, or control, and shall deliver all other tribal property so held by him, to the Secretary of the Interior, and if any person shall willfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided for sixty days from dissolution of the tribal government, he shall be deemed guilty of embezzlement and upon conviction thereof shall be punished by a fine of not exceeding five thousand dollars or by imprisonment not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable in civil proceedings to be prosecuted in behalf of and in the name of the tribe for the amount or value of the money or property so withheld.]

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[SEC. 15. The Secretary of the Interior shall take possession of all buildings now or heretofore used for governmental, school, and other tribal purposes, together with the furniture therein and the land appertaining thereto, and appraise and sell the same at such time and under such rules and regulations as he may prescribe, and deposit the proceeds, less expenses incident to the appraisement and sale, in the Treasury of the United States to the credit of the respective tribes: *Provided*, That in the event said lands are embraced within the geographical limits of a State or Territory of the United States such State or Territory or any county or municipality therein shall be allowed one year from date of establishment of said State or Territory within which to purchase any such lands and improvements within their respective limits at not less than the appraised value. Conveyances of lands disposed of under this section shall be executed, recorded, and delivered in like manner and with like effect as herein provided for other conveyances.]

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[SEC. 18. That the Secretary of the Interior is hereby authorized to bring suit in the name of the United States, for the use of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes, respectively, either before or after the dissolution of the tribal governments, for the collection of any moneys or recovery of any land claimed by any of said tribes, whether such claim shall arise prior to or after the dissolution of the tribal governments, and the United States courts in Indian Territory are hereby given jurisdiction to try and determine all such suits, and the Secretary of the Interior is authorized to pay from the funds of the tribe interested any costs and necessary expenses incurred in maintaining and prosecuting such suits: *Provided*, That proceedings to which any of said tribes is a party pending before any court or tribunal at the date of dissolution of the tribal governments shall not be thereby abated or in anywise affected, but shall proceed to final disposition.

[Where suit is now pending, or may hereafter be filed in any United States court in the Indian Territory, by or on behalf of any one or more of the Five Civilized Tribes to recover moneys claimed to be due and owing to such tribe, the party defendants to such suit shall have the right to set up and have adjudicated any claim it may have against such tribe; and any balance that may be found

due by any tribe or tribes shall be paid by the Treasurer of the United States out of any funds of such tribe or tribes upon the filing of the decree of the court with him.]

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[SEC. 20. That after the approval of this Act all leases and rental contracts, except leases and rental contracts for not exceeding one year for agricultural purposes for lands other than homesteads, of full-blood allottees of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes shall be in writing and subject to approval by the Secretary of the Interior and shall be absolutely void and of no effect without such approval: *Provided*, That allotments of minors and incompetents may be rented or leased under order of the proper court: *Provided further*, That all leases entered into for a period of more than one year shall be recorded in conformity to the law applicable to recording instruments now in force in said Indian Territory.]

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[SEC. 23. Every person of lawful age and sound mind may by last will and testament devise and bequeath all of his estate, real and personal, and all interest therein: *Provided*, That no will of a full-blood Indian devising real estate shall be valid, if such last will and testament disinherits the parent, wife, spouse, or children of such full-blood Indian, unless acknowledged before and approved by a judge of the United States court for the Indian Territory, or a United States commissioner.]

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SEC. 28. That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations are hereby continued in full force and effect for all purposes authorized by law, until otherwise provided by law, but the tribal council or legislature in any of said tribes or nations shall not be in session for a longer period than thirty days in any one year[: *Provided*, That no act, ordinance, or resolution (except resolutions of adjournment) of the tribal council or legislature of any of said tribes or nations shall be of any validity until approved by the President of the United States: *Provided further*]: *Provided*, That no contract involving the payment or expenditure of any money or affecting any property belonging to any of said tribes or nations made by them or any of them or by any officer thereof, shall be of any validity until approved by the President of the United States.

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ACT OF MAY 7, 1970

(Public Law 91–240)

AN ACT To provide for disposition of estates of intestate members of the Cherokee, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That upon the final determination of a court having jurisdiction or by decision of

the Secretary of the Interior after a period of five years from the death of the decedent, it is determined that a member of the Cherokee, *Creek,* Chickasaw, Choctaw, or Seminole Nations or Tribes of Oklahoma or a person of the blood of said tribes has died intestate without heirs, owning trust or restricted Indian lands in Oklahoma or an interest therein or rents or profits therefrom, such lands, interests, or profits shall escheat to the Nation or tribe from which title to the trust or restricted Indian lands or interest therein was [derived and shall] *derived. Such lands, interests, and profits, and any restricted Indian lands or interests therein allotted by any such Indian nation that are reacquired by that Indian nation by conveyance authorized under section 202(a) of the Five Nations Indian Land Reform Act shall* be held thereafter in trust by the United States for said nation or tribe.

ACT OF OCTOBER 22, 1970

(Public Law 91–495)

AN ACT To authorize each of the Five Civilized Tribes of Oklahoma to popularly select their principal officer, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, the principal chiefs of the Cherokee, Choctaw, Creek, and Seminole Tribes of Oklahoma and the governor of the Chickasaw Tribe of Oklahoma shall be popularly selected by the respective tribes in accordance with procedures established by the officially recognized tribal spokesman and or governing entity. [Such established procedures shall be subject to approval by the Secretary of the Interior.]

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