

TERMINATION OF FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

THURSDAY, FEBRUARY 25, 1954

UNITED STATES SENATE,
HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS OF THE UNITED STATES SENATE;
AND SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS OF THE HOUSE OF REPRESENTATIVES,
Washington, D. C.

The committees met at 10 a. m., pursuant to recess, in room 224, Senate Office Building, Senator Arthur V. Watkins, chairman, presiding.

Present: Senator Watkins; Representatives D'Ewart, Harrison, Berry, Westland, Aspinall, Donovan, and Haley.

Present also: Senator Murray; Albert A. Grorud, member of the professional staff of the Senate Committee on Interior and Insular Affairs.

Senator WATKINS. The committees will be in session.

The measures for consideration at the present hearing are S. 2750 and its companion bill in the House, H. R. 7319. Since they are identical we will place only S. 2750 and the Interior Department report in the record at this point.

(The bill and report are as follows:)

[S. 2750, 83d Cong., 2d sess.]

A BILL To provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana, and the individual members thereof, 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 purpose of this Act is to provide for the termination of Federal supervision over the trust and restricted property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation in Montana and the individual members thereof, for the disposition of federally owned property acquired or withdrawn for the administration of the affairs of such Indians, and for a termination of Federal services furnished such Indians because of their status as Indians.

SEC. 2. For the purposes of this Act—

(a) "Tribe" means the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

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

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

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

SEC. 3. The tribe shall have a period of three months from the date of this Act in which to prepare and submit to the Secretary a proposed roll of the members of the tribe living on the date of this Act, which shall be published in the Federal Register. If the tribe fails to submit such roll within the time specified in this section, the Secretary shall prepare a proposed roll for the tribe, which shall be published in the Federal Register. Any person claiming membership rights in the tribe or an interest in its assets, or a representative of the Secretary on behalf of any such person, may, within sixty days from the date of publication of the proposed roll, file an appeal with the Secretary contesting the inclusion or omission of the name of any person on or from such roll. The Secretary shall review such appeals and his decisions thereon shall be final and conclusive. After disposition of all such appeals the roll of the tribe shall be published in the Federal Register and such roll shall be final for the purposes of this Act.

SEC. 4. Upon publication in the Federal Register of the final roll as provided in section 3 of this Act, the rights or beneficial interests in tribal property of each person whose name appears on the roll shall constitute personal property which may be inherited or bequeathed, but shall not otherwise be subject to alienation or encumbrance before the transfer of title to such tribal property as provided in section 5 of this Act without the approval of the Secretary. Any contract made in violation of this section shall be null and void.

SEC. 5. (a) Upon request of the tribe approved by a majority of the adult members thereof voting in a referendum called by the Secretary, the Secretary is authorized to transfer within two years from the date of this Act to a corporation or other legal entity organized by the tribe in a form satisfactory to the Secretary title to all or any part of the tribal property, real, and personal, or to transfer to one or more trustees designated by the tribe and approved by the Secretary title to all or any part of such property to be held in trust for management or liquidation purposes under such terms and conditions as may be specified by the tribe and approved by the Secretary.

(b) Title to any tribal property that is not transferred in accordance with the provisions of subsection (a) of this section shall be transferred by the Secretary to one or more trustees designated by him for the liquidation and distribution of assets among the members of the tribe under such terms and conditions as the Secretary may prescribe: *Provided*, That the trust agreement shall provide for the termination of the trust not more than three years from the date of such transfer unless the term of the trust is extended by order of a judge of a court of record designated in the trust agreement.

(c) The Secretary shall not approve any form of organization pursuant to subsection (a) of this section that provides for the transfer of stock or an undivided share in corporate assets as compensation for the services of agents or attorneys unless such transfer is based upon an appraisal of tribal assets that is satisfactory to the Secretary.

(d) When approving or disapproving the selection of trustees in accordance with the provisions of subsection (a) of this section, and when designating trustees pursuant to subsection (b) of this section, the Secretary shall give due regard to the laws of the State of Montana that relate to the selection of trustees.

SEC. 6. (a) The Secretary is authorized and directed to transfer within two years from the date of this Act to each member of the tribe unrestricted control of funds or other personal property held in trust for such member by the United States.

(b) All restrictions on the sale or incumbrance of trust or restricted land owned by members of the tribe (including allottees, heirs, and devisees, either adult or minor) are hereby removed two years after the date of this Act, and the patents or deeds under which titles are then held shall pass the titles in fee simple, subject to any valid incumbrance. The titles to all interests in trust or restricted land acquired by members of the tribe by devise or inheritance two years or more after the date of this Act shall vest in such members in fee simple subject to any valid incumbrance.

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

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

(2) upon request of any of the owners and a finding by the Secretary that partition of all or any part of the land is not practicable, cause all or

any part of the land to be sold at not less than the appraised value thereof and distribute the proceeds of sale to the owners: *Provided*, That any one or more of the owners may elect before a sale to purchase the other interests in the land at not less than the appraised value thereof, and the purchaser shall receive an unrestricted patent or deed to the land; or

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

SEC. 7. (a) The Act of June 25, 1910 (36 Stat. 855), the Act of February 14, 1913 (37 Stat. 678), and other Acts amendatory thereto shall not apply to the probate of the trust and restricted property of the members of the tribe who die six months or more after the date of this Act.

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

SEC. 8. The Secretary is authorized, in his discretion, to transfer to the tribe or any member or group of members thereof any federally owned property acquired, withdrawn, or used for the administration of the affairs of the tribe which he deems necessary for Indian use, or to transfer to a public or nonprofit body any such property which he deems necessary for public use and from which members of the tribe will derive benefit.

SEC. 9. No property distributed under the provisions of this Act shall at the time of distribution be subject to Federal or State income tax. Following any distribution of property made under the provisions of this Act, such property and any income derived therefrom by the individual, corporation, or other legal entity shall be subject to the same taxes, State and Federal, as in the case of non-Indians: *Provided*, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

SEC. 10. (a) Effective on the first day of the calendar year beginning after the date of the proclamation provided for in section 14 of this Act, the deferment of the assessment and collection of construction costs provided for in the first proviso of the Act of July 1, 1932 (47 Stat. 564; 25 U. S. C. 386a), shall terminate with respect to lands within the Flathead Indian irrigation project, and the reimbursable construction costs chargeable against such lands shall be repaid in annual installments of approximately equal amount over a fifty-year period. Such lands shall also be subject to the payment annually of the operation and maintenance charges assessed against them. The Secretary shall cause the first lien against such lands created by the Act of May 18, 1916 (39 Stat. 139), and May 10, 1926 (44 Stat. 453, 464-466), to be filed of record in the appropriate county office.

(b) The Secretary is hereby authorized to adjust unpaid operation and maintenance assessments against Indian owned lands within the Flathead Indian irrigation project and to cancel or eliminate all or any part of such assessments that he determines to be inequitable.

(c) Nothing contained in any other section of this Act shall affect in any way the laws applicable to the Flathead Indian irrigation project or the contractual arrangements entered into pursuant to such laws.

SEC. 11. Prior to the transfer of title to, or the removal of restrictions from, property in accordance with the provisions of this Act, the Secretary shall protect the rights of members of the tribe who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs by causing the appointment of guardians for such members in courts of competent jurisdiction, or by such other means as he may deem adequate.

SEC. 12. Pending the completion of the property dispositions provided for in this Act, the funds now on deposit, or hereafter deposited, in the United States Treasury to the credit of the tribe shall be available for advance to the tribe, or for expenditure, for such purposes as may be designated by the governing body of the tribe and approved by the Secretary.

SEC. 13. The Secretary shall have authority to execute such patents, deeds, assignments, releases, certificates, contracts, and other instruments as may be necessary or appropriate to carry out the provisions of this Act, or to establish a marketable and recordable title to any property disposed of pursuant to this Act.

776 FEDERAL SUPERVISION OVER CERTAIN TRIBES OF INDIANS

SEC. 14. (a) Upon removal of Federal restrictions on the property of the tribe and individual members thereof, the Secretary shall publish in the Federal Register a proclamation declaring that the Federal trust relationship to the affairs of the tribe and its members has terminated. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction.

(b) Nothing in this Act shall affect the status of the members of the tribe as citizens of the United States, or shall affect their rights, privileges, immunities, and obligations as such citizens.

SEC. 15. (a) Effective on the date of the proclamation provided for in section 14 of this Act, the corporate charter of the tribe issued pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended, ratified by the tribe on April 25, 1936, is hereby revoked.

(b) Effective on the date of the proclamation provided for in section 14 of this Act, all powers of the Secretary or other officer of the United States to take, review, or approve any action under the constitution and bylaws of the tribe are hereby terminated. Any powers conferred upon the tribe by such constitution which are inconsistent with the provisions of this Act are hereby terminated. Such termination shall not affect the power of the tribe to take any action under its constitution and bylaws that is consistent with this Act without the participation of the Secretary or other officer of the United States.

SEC. 16. The Secretary is authorized to set off against any indebtedness payable to the tribe or to the United States by an individual member of the tribe any funds payable to such individual under this Act and to deposit the amounts set off to the credit of the tribe or the United States as the case may be.

SEC. 17. Nothing in this Act shall affect any claim heretofore filed against the United States by the tribe.

SEC. 18. Nothing in this Act shall abrogate any valid lease, permit, license, right-of-way, lien, or other contract heretofore approved. Whenever any such instrument places in or reserves to the Secretary any powers, duties, or other functions with respect to the property subject thereto, the Secretary may transfer such functions, in whole or in part, to any Federal agency with the consent of such agency.

SEC. 19. The Secretary is authorized to issue rules and regulations necessary to effectuate the purposes of this Act, and may in his discretion provide for tribal referenda on matters pertaining to management or disposition of tribal assets.

SEC. 20. All Acts or parts of Acts inconsistent with this Act are hereby repealed insofar as they affect the tribe or its members. The Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378), shall not apply to the tribe and its members after the date of the proclamation provided for in section 14 of this Act. Effective on the first day of the fiscal year beginning after the date of the proclamation provided for in section 14 of this Act the recoupment requirement of the last proviso under the heading "Bureau of Indian Affairs" in title I, Second Deficiency Act, fiscal year 1935 (49 Stat. 571, 584), shall become inapplicable to the unrecouped balance of funds expended in cooperation with Joint School District Numbered 28, Lake and Missoula Counties, Montana, pursuant to the Act of June 7, 1935 (48 Stat. 328, ch. 191).

SEC. 21. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., January 4, 1954.

Hon. RICHARD M. NIXON,
President of the Senate, Washington, D. C.

MY DEAR MR. PRESIDENT: Enclosed herewith is a draft of a proposed bill to provide for the termination of Federal supervision over the property of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont., and the individual members thereof, and for other purposes.

The proposed bill is submitted in response to House Concurrent Resolution 108, 83d Congress, 1st session. It is requested that the proposed bill be referred to the appropriate committee for consideration.

There are also enclosed for your convenience copies of an analysis of the bill and a summary of background information relating to the Flathead Indians.

There are presently some 4,213 members in the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. Census records indicate that only 7 percent of them are fullblood Indians, 64 percent of them are of less than one-half Indian blood, and more than a third of them are of less than one-fourth Indian blood. Approximately one-half of the tribal members are established away from the reservation area, and the members residing on or near the reservation area are outnumbered 13 to 1 by non-Indians living in the same area. It is estimated that nine-tenths of the Flathead Indian families are fully self-supporting.

The major resources of the Flathead Indians consist of some 644,015 acres of trust lands, including the Flathead forest, 1 developed hydropower dam site, and 2 potential dam sites. In addition, they have two tribal business enterprises: A mineral bath, and a resort lodge. A total of 200,008 acres of the trust lands are individually owned. Approximately 14,300 acres of these lands are within the Flathead irrigation project, constituting slightly more than 15 percent of the lands within the project.

The continued protection of the watershed area that includes the Flathead forest merits special attention by the Congress. The Flathead forest lands, aggregating 474,200 acres, are located on the mountain slopes immediately above the Flathead Valley and adjoin national forest lands that are located at higher elevations on three sides of the valley. In the valley below the Flathead and national forest lands there are extensive irrigation developments which represent substantial investments by the Federal Government and the individual owners of valley lands, largely non-Indians. The problem of protecting the watershed area, however, is beyond the scope of the proposed bill.

Field officials of the Bureau of Indian Affairs of this Department have held group meetings and individual conferences to discuss a preliminary draft of the proposed bill with tribal members, officials of the State of Montana, officials of the local governments primarily involved, and other interested persons, both Indian and non-Indian. Tribal members residing away from the reservation were invited to express their views by letter.

The sentiment expressed by individual tribal members residing in the reservation area was decidedly in opposition to the proposed bill. At a general meeting called for the purpose of discussing the preliminary draft, attended by about 130 adult Flathead Indians, a substantial majority voiced their opposition. The tribal council members voted unanimously against endorsement of the proposed bill, declaring they did not want to accept a terminal bill at this time. They are supported in this position by the tribal attorney and by officials of a missionary group on the reservation. However, there is a small reservation group that favors termination of Federal responsibility for administering their affairs.

Off-reservation tribal members, on the other hand, have generally indicated they favor the purposes of the proposed bill. At this time, 134 replies have been received in response to the invitation for their comments, which represents an estimated 40 percent of the off-reservation families. Approximately 82 percent of the responses favor the purposes of the proposed bill, while 7 percent oppose it. About 11 percent of the responses do not indicate a definite position.

Officials of the State of Montana at the time that they were consulted did not commit themselves to a definite position with respect to the proposed bill, but they indicated that they saw no reason for objection to the preliminary draft as long as arrangements are made to protect the elderly fullblood Indians who might not be capable of looking after themselves. In separate conferences, the chairmen of the boards of county commissioners of the two counties primarily involved likewise indicated they saw no reason for objection to the preliminary draft. They, too, urged that care be taken not to hurt in any way the elderly fullblood Indians.

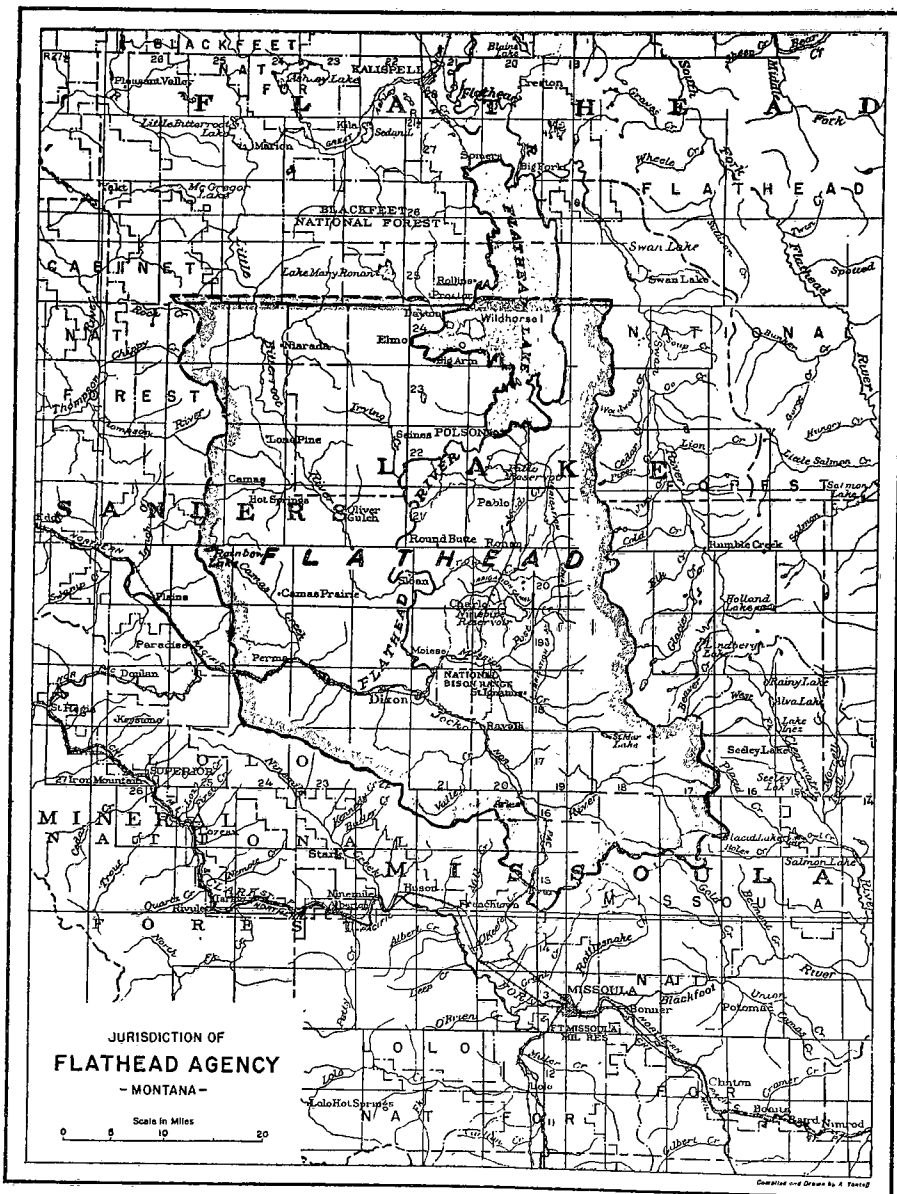
Representatives of the three irrigation districts of the Flathead irrigation project were also consulted on the preliminary draft because it was proposed to include provisions for the transfer of the management of the project to the districts. The largest of the three districts definitely opposed the inclusion of such provisions in the proposed bill. Since then it has become apparent that further study of Montana irrigation law is essential, inasmuch as the mechanics of such

a transfer will be conditioned by applicable State laws. The matter is therefore not treated in the proposed bill, except to provide for placing the Indian-owned lands within the project in the same status as non-Indian-owned lands. Instead, it is proposed to treat the matter of transfer of management responsibility for the project in separate legislative recommendations at a later date.

Because of the specified date by which the legislative recommendations of the Department are to be submitted in response to House Concurrent Resolution 108, the proposed bill and this report have not been cleared through the Bureau of the Budget, and, therefore, no commitment can be made concerning the relationship of the proposed bill and the views expressed herein to the program of the President.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.



INFORMATION RELATING TO THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION, MONT.

Background

The Indian people of the Flathead Reservation, in Montana, are descendants of members of groups and bands from a number of tribes which were once located throughout the area that is now western Montana, northern Idaho, and eastern Washington and Oregon. Under a stipulation of the Hell Gate Treaty of July 16, 1855 (12 Stat. 975), which was negotiated in the Bitter Root Valley of Montana, the Flathead, Kootenai, and Upper Pend d'Oreille Indians were designated as confederated tribes and, together with such other friendly bands and tribes of the Territory of Washington who might agree to consolidate with them, were declared to constitute the Flathead Nation. Tribes actually represented on the reservation in addition to the Flathead, Kootenai, and Pond d'Oreille include the Kalispel, Spokane, Nez Perce, and Colville in substantial numbers, and the Cree, Chippewa, Blackfeet, Snake, Shoshone, Chinook, and Iroquois in lesser numbers. Many of the Indians on the Flathead Reservation also have French, Scotch, and Scandinavian ancestry as a result of early intermarriage between the Indians and Hudson Bay fur traders and trappers and, later, their descendants. In 1936 the Indians of the Flathead Reservation incorporated under the provisions of the act of June 18, 1934 (48 Stat. 984), under the name of the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont.

The Hell Gate Treaty, *supra*, also provided for the establishment of a general reservation to be settled by the Flathead Nation as created by the treaty. The treaty also set aside a portion of the Bitter Root Valley as a supplementary reservation for the Flatheads, but the Indians located there were later removed to the general reservation pursuant to the act of March 2, 1889 (25 Stat. 871). The general reservation, for 40 years called the Joeko Reservation, is now known as the Flathead Reservation. Allotment of the Flathead Reservation and the opening to settlement of the lands remaining after allotment, except for certain areas reserved for specified purposes, were authorized by the act of April 23, 1904 (33 Stat. 302). Subsequent acts provided for the sale or reservation of additional portions of the lands previously opened to settlement. Additional allotments were authorized by the act of February 25, 1920 (41 Stat. 452), this time to unallotted living children enrolled or entitled to enrollment with the tribes. These allotments were made largely in the timber areas, and the first cutting of timber on them was to be reserved for tribal benefit after which title to the residual timber was then to pass to the allottees. The election of the tribes to have the act of June 18, 1934, *supra*, apply to them brought an end to further general disposition of the reservation lands, except for specific conveyances of land to the State of Montana and Lake County, Mont., which were authorized by subsequent acts. Under authority of the act of June 18, 1934, *supra*, the Secretary of the Interior by an order of February 13, 1936, restored to tribal ownership 192,424 acres remaining of the lands previously opened to settlement. Approximately 50 percent of the original reservation is now owned by non-Indians.

The act of April 23, 1904, *supra*, in addition to authorizing allotments and non-Indian settlement of the surplus lands, provided for a survey to determine the feasibility of an irrigation project. Following a favorable finding, construction was begun on the Flathead irrigation project in 1909 with funds appropriated by the act of March 3, 1909. All appropriations for the construction were made from tribal funds until 1916, when the act of May 18, 1916 (39 Stat. 141), provided for reimbursement to the tribes for such expenditures. The construction activities were carried on by the Reclamation Service, under an arrangement made in 1907, until 1924, when the Reclamation Service withdrew from the project. The Flathead irrigation project was established to embrace both Indian and non-Indian lands, and today approximately 80 percent of the lands under irrigation are non-Indian owned. Most of the non-Indian lands under the project are covered by three irrigation districts organized under State law, each within a different watershed. The total designated irrigable area aggregates 130,000 acres. There are 93,000 acres actually under irrigation at this time, of which slightly more than 15 percent is in Indian ownership.

The people

Currently there are 4,213 members in the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Mont. It is estimated that 28 adult members are unable to speak English and 55 are unable to read and write. Approximately 50 percent of tribal members are established away from the reservation area, and the members residing on and near the reservation are outnumbered

13 to 1 by non-Indians within the same area. Census records indicate that 64 percent of the tribal members are of less than one-half Indian blood and that only 7 percent of the tribal members are fullbloods. More than a third of the members are of less than one-fourth Indian blood. Flathead Indian children have been in attendance at public or mission schools for a period of several decades. In 1942, 27 percent of the children of school age were not attending school, while currently only 7 percent are not attending school for various reasons.

During fiscal year 1952, 111 Flathead families were totally dependent upon categorical aids or tribal welfare funds and 11 families were partially dependent upon such sources for their support. The sources of Indian livelihood on the reservation, in the order of their importance, are wage work, timber operations, grain farming, dairy and beef cattle, hunting and fishing, and tourist trade. It is estimated that some 457 families derive their full support from use of reservation resources and 467 families fully support themselves by gainful pursuits away from the reservation. It is estimated the reservation resources would provide a livelihood for all but 132 of the resident Indian families at an annual income level comparable to the locally prevailing non-Indian income level of \$2,400.

Reservation resources

The Flathead Reservation is located between the cities of Missoula and Kalispell, Mont. It is about 65 miles long from north to south and about 35 miles wide. The crest of the Mission Mountains form the eastern boundary, the Cabinet Mountains bound it on the west, and the Lolo National Forest on the south. The northern boundary is a straight line about 24 miles south of Kalispell, approximately bisecting Flathead Lake. Reservation elevations range from 2,500 feet to 10,000 feet, with the average elevation more than 3,000 feet. The growing season ranges from 120 days to 180 days, and precipitation averages 15 inches.

The reservation area comprises 644,015 acres of Indian trust lands, of which 442,804 are tribal, 200,008 acres are allotted or held in restricted fee patent, and 1,203 acres are reserved by the Government for administrative purposes. The reservation lands are classified as follows:

	<i>Acres</i>
Irrigated farming.....	18, 600
Nonirrigated farming.....	¹ 46, 876
Grazing.....	¹ 54, 435
Forest.....	474, 200
Barren and waste.....	42, 043
Administrative sites.....	468
Miscellaneous, including reservoirs.....	7, 473

¹ Figures are not mutually exclusive.

Indians themselves farm 7,889 acres of the 18,600 acres under irrigation and 23,833 acres of the 46,876 acres of dry farmland. Indians themselves use almost 80 percent of the grazing lands, which are estimated to have a carrying capacity of approximately 36,000 cow-months. Only 89,000 acres out of the 200,008 acres of land individually owned by Indians are used directly by Indians.

The Flathead forest is managed on a sustained-yield basis with a long-term allowable cut ranging between 10 and 12 million board feet annually. In calendar year 1952 the actual cut was 28,223,000 board feet on tribal lands and 1,207,000 board feet on allotted lands, yielding gross revenues of \$612,560 and \$20,923, respectively.

Additional assets and revenue of the Confederated Salish and Kootenai Tribes include:

	Assets	Net income
1. Tribal loans as of June 30, 1953: ^{1 2}		
Cash on hand.....	\$37,051	
Loans outstanding.....	330,423	
Net cattle loaned, 740 at \$65 ³	48,100	
Total.....	415,574	
2. Lease of power and dam site: Income from Montana Power Co., fiscal year 1952.....		\$202,200
3. Hot Springs mineral baths:		
Plant investment as of June 30, 1952.....	500,000	
Net income, fiscal year 1952.....		2,211
4. Blue Bay Lodge:		
Plant investment as of June 30, 1952.....	150,000	
Net income, fiscal year 1952.....		1,000
5. Leasing of tribal grazing lands, fiscal year 1952.....		14,529
6. Income from timber sales, calendar year 1952 ⁴		551,340
7. Interest on funds in U. S. Treasury ⁵		15,600
8. Miscellaneous income, fiscal year 1952.....		15,875
Total annual income, fiscal year 1952.....		802,755

¹ It was estimated that individual Indians had the following additional credit as of June 30, 1952: Local banks, \$104,900; Production Credit Association, \$3,700.

² Interest income is reported under "Miscellaneous income," item No. 8.

³ Excess of cattle owed to tribe over cattle tribe owes Government.

⁴ 10 percent Government administrative charge deducted from actual sales for the year.

⁵ Based on \$390,000 on deposit in U. S. Treasury at 4 percent interest.

Contrasted with recent annual income of approximately \$800,000 are the budgeted tribal expenditures for fiscal year 1954 in the amount of \$151,920, detailed as follows:

General administration.....	\$45,260
Welfare.....	8,580
Health.....	50,000
Education.....	8,480
Law and order.....	16,550
Land management.....	7,830
Livestock.....	3,380
Fire suppression.....	5,000
Credit.....	6,840
Total.....	151,920

Services

Flathead Indians receive services from both the State and local governments and the Bureau of Indian Affairs, and the tribes contribute in part to the financing of some of the services as reflected in their budget for fiscal year 1954 above. The State and local governments admit Flathead Indians to public schools, acknowledge their eligibility for all categories of welfare assistance, and accept institutional cases in State facilities.

The Bureau of Indian Affairs currently provides the following services at the Flathead Reservation: General supervision of tribal activities; management and operation of the Flathead irrigation project and reservation timber; construction, operation, and maintenance of certain reservation roads; management of trust property; supervision of tribal credit activities; furnishing of medical services; and furnishing of off-reservation boarding school facilities for certain Indian children and financing under contract a portion of the costs of local public schools attended by Flathead Indian children of one-fourth or more Indian blood. These services required the expenditure of \$194,083 in gratuity funds during fiscal 1952, exclusive of agency, area office and central office general administrative costs.

SPECIAL PROBLEMS IN CONNECTION WITH TERMINATION OF SPECIAL FEDERAL RELATIONSHIPS WITH THE FLATHEAD INDIANS

Organization

The principal and basic problem confronting the Flathead Indians in connection with termination of special Federal relations is that of retention, modi-

fication of holdings, or liquidation of the tribal assets. Assuming scheduled termination of special Flathead relations with the Federal Government the Indians must determine their need for a successor organization to the present organization established under the Indian Reorganization Act (act of June 18, 1934, supra) which would be adequate to manage or dispose of their tribal assets. This decision will in turn condition the methods by which the Federal Government will divest itself of trust title to the tribal assets and terminate other trust obligations with respect to its management of the tribal assets.

Timber

The major economic decision confronting the tribe will be whether to make provision for continuing the management of tribal timber or to effect its disposition. This decision should be made after full consideration of the problems and possible alternatives by the Indians. Special advantages of alternatives will depend to a certain extent upon factors such as State and Federal requirements by way of taxation and management and Indian attitudes toward short-range financial advantages of liquidation in comparison with long-range financial advantages of continued operation by an organization under complete Indian control. A special complication is the fact that about 25 percent of the timbered trust lands are in allotments made in 1920 on which the tribe reserved rights to the first cutting of timber. There is an inherent conflict of interest between an incorporation of such allotments into an overall program of sustained-yield forest management and the desire of the allottees to realize an immediate return from their allotments.

Flathead irrigation and power system

The Bureau of Indian Affairs now operates a joint electric power and irrigation venture at the Flathead Reservation. The need for adequate measures for divesting the Bureau of its management responsibilities for the project constitutes another special problem. The power system serves approximately 5,000 customers and the irrigation system provides water currently for approximately 93,000 acres of which 14,300 acres are Indian-owned with only 3,600 acres of these lands actually being farmed by Indians. Power revenues are used to subsidize irrigation costs. The joint enterprise operates 109 miles of telephone line for control and dispatching purposes. Construction costs, advanced by the Federal Government are largely still outstanding. Under the terms of the Levitt Act of July 1, 1932 (47 Stat. 564) liability of Indian lands for repayment of construction costs to the United States Treasury has been deferred indefinitely. Approximately \$160,000 of unpaid operation and maintenance charges have accrued against Indian lands covered under the irrigation project, most of these lands not having been placed under irrigation as yet.³

A careful plan will need to be developed to provide for operation of the joint power and irrigation system following termination of special Federal services to Flathead Indians. A particular problem arises from restrictive provisions of Montana irrigation district law which relate to operation of electric power systems by such districts. It may be desirable to seek modification of this statutory provision.

State and local relations

There appears to be some question about the ability of the State and local subdivisions of government to absorb from local taxes the costs of furnishing to Flathead Indians the full complement of government services currently made available by Montana to its non-Indian citizens.

It is estimated that potential real and personal property tax revenues from Flathead trust lands and Indian personal property will amount to approximately \$145,000 annually while present tribal and Bureau annual expenditures on activities of a governmental nature amount to approximately \$286,000.³ While these data require analysis to ascertain that current Bureau and tribal expenditures are commensurate with costs which would be incurred by the State and its local subdivisions after termination of Federal supervision and trusteeship, it does appear from the facts at hand that such termination will present a financial problem to the State and local governments.

³The present system can furnish water to approximately 107,000 acres and can be enlarged to serve a total of 138,000 acres.

²In fiscal 1951 Bureau provided \$233,000 and the tribe furnished \$53,000 to finance services of a governmental nature.

From the Indian standpoint, another problem in State and local relations is the matter of extension of State law and order jurisdiction to Indian trust lands. The Flathead Indians have expressed opposition to such a move in the past on the grounds of concern about possible loss of exclusive fishing and hunting rights on Indian trust land and possible discrimination on the part of non-Indian law enforcement officials. On the basis of observation by Bureau representatives of local non-Indian attitudes, the fear of discrimination appears unjustified.

Fractionated land interests

There are substantial numbers of undivided ownership interests in Indian allotted lands at Flathead. The extent to which this situation constitutes a problem in a terminal readjustment program hinges on the extent to which the Federal Executive and Legislative Departments determine that prior elimination of such fractionated land interests is to be undertaken by the Federal Government.

Power site and water rights lease to Montana Power Co.

In the event the members of the tribe decide to liquidate their tribal assets, some difficulty may be encountered in disposing of this contract which is subject to renegotiation with the Montana Power Co. It would appear that this company would be the logical purchaser of the contract and water rights if satisfactory terms could be agreed upon.

Indian claims and treaty rights

The Flathead Indians have claims presently pending before the Indian Claims Commission and may have certain treaty rights yet extant. However, it does not appear that these considerations will impede or prevent termination of special Federal relations.

SECTION-BY-SECTION ANALYSIS OF A PROPOSED BILL TO PROVIDE FOR THE TERMINATION OF FEDERAL SUPERVISION OVER THE PROPERTY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES OF THE FLATHEAD RESERVATION, MONT., AND THE INDIVIDUAL MEMBERS THEREOF, AND FOR OTHER PURPOSES

1. Section 1 of the bill is a statement of purpose.
2. Section 2 of the bill consists of definitions that are designed to eliminate the need for repeating phrases through the bill.
3. Section 3 of the bill provides for the preparation and publication in the Federal Register of a membership roll for the tribe, which shall be final for the purposes of the act. Primary responsibility for preparation of the roll is placed on the tribe. The Secretary will publish the roll prepared by the tribe without reviewing it. Corrections to the roll will be handled entirely by the appeal process. Any aggrieved person may appeal to the Secretary. After the Secretary has decided all appeals he will republish the roll, and it will be final for the purposes of the act. As the Secretary does not review the roll except to the extent necessary to decide appeals, the Superintendent or other designated representative of the Secretary will have the right to appeal on behalf of any Indian in order that he may protect the rights of persons who should but who fail to appeal, to the extent he knows about them.
4. Section 4 of the bill declares that the right of each enrolled member of the tribe to share in the use or disposition of tribal property is a personal property right which may be bequeathed or inherited, but which may not otherwise be alienated before the Federal trusteeship over the property is terminated.
5. Section 5 of the bill provides for the termination of Federal supervision over tribal real and personal property. Within a 2-year period from the date of the act, the tribe may request the Secretary to transfer title to the property either to a corporation organized by the tribe or to one or more trustees of the tribe's choice for management or liquidation purposes. The request of the tribe in order to be valid must be approved by a majority of the adult members of the tribe voting in a referendum called for that purpose by the Secretary. If the tribe does not exercise an option, the Secretary will transfer title to the property to a trustee of his choice, who will take title for liquidation purposes only.
6. Section 6 of the bill provides for the termination of Federal supervision over the personal and real property of individual members of the tribe. Within a 2-year period from the date of the act, the individual members will be given unrestricted title to their funds and other personal property held in trust. All restrictions on trust or restricted lands owned by individual members are removed

2 years after the date of the act, but during the interim period the Secretary may upon request of an owner partition or sell lands owned by more than one Indian, or issue patents to the owners for their undivided interests. Under this procedure restrictions will be removed as rapidly as the title problems are resolved.

7. Section 7 of the bill makes State law rather than Federal law applicable to the probate of trust or restricted property of Indians who die 6 months or more after the date of the act. The Bureau of Indian Affairs will complete the probate of estates pending at that time, but will not be responsible for the probate of any new estates.

8. Section 8 of the bill provides for the disposition of federally owned property, as distinguished from Indian property, that is now used for the administration of Flathead Indian affairs and that will no longer be needed for such purposes when the terminal program is completed. Such property may be given to the Indians or to public or nonprofit agencies if the Indians will derive a benefit therefrom, or may be retained in Federal ownership.

9. Section 9 of the bill makes the distribution of trust property under the act not subject to Federal or State income tax, but after the distribution is made the property and income therefrom will be subject to the same Federal and State taxes as in the case of non-Indians.

10. Section 10 of the bill provides for the assessment and collection of reimbursable construction costs chargeable against Indian-owned lands within the Flathead Indian irrigation project following the removal of trust restrictions from such lands. It also provides authority to make adjustments in unpaid operation and maintenance assessments against Indian-owned lands within the project in cases where such assessments are determined to be inequitable. Otherwise, the section makes no changes in the laws applicable to the Flathead Indian irrigation project.

11. Section 11 of the bill directs the Secretary of the Interior to protect the rights of Indians who are minors, non compos mentis, or unable to handle their property without assistance by causing the appointment of guardians or by such other means as he deems adequate.

12. Section 12 of the bill provides for the use of tribal funds in the Treasury of the United States for any purpose approved by the tribe and the Secretary.

13. Section 13 of the bill authorizes the Secretary to execute any conveyancing instruments necessary to carry out the purposes of the act or to establish a marketable title.

14. Section 14 of the bill provides that when Federal restrictions are removed from the property of the tribe and its members a proclamation will be published in the Federal Register, and thereafter such Indians will have the same status under State and Federal law as any other person or citizen.

15. Section 15 of the bill revokes the corporate charter issued to the tribe under the act of June 18, 1934 (48 Stat. 984), and terminates all powers under the tribal constitution that are inconsistent with any provision of the act. The section also terminates the power of the Secretary to take, review, or approve any action under tribal constitutions.

16. Section 16 of the bill authorizes funds payable under the act to an individual Indian to be set off against any debts owed by the individual to the tribe or to the United States.

17. Section 17 of the bill protects claims heretofore filed in the Indian Claims Commission.

18. Section 18 of the bill protects existing valid leases, permits, rights-of-way, liens, or other contracts, but authorizes the Secretary to transfer any functions he may have under such instruments to another Federal agency.

19. Section 19 of the bill gives the Secretary of the Interior authority to issue rules and regulations necessary to carry out the purposes of the act.

20. Section 20 of the bill repeals all inconsistent provisions in other acts, and makes the act of June 18, 1934 (48 Stat. 984), as amended (commonly called the Indian Reorganization Act), inapplicable to the Flathead Indians. It also makes a required recoupment of funds expended in cooperation with school districts inapplicable to the balance of unrecouped funds expended in cooperation with Joint School District No. 28, Lake and Missoula Counties, Mont.

21. Section 21 of the bill contains a separability provision.

Senator WATKINS. This is a joint hearing being conducted by the subcommittees of both the Senate and the House Committees on Interior and Insular Affairs.