

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 publication 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.

(June 14, 1918, ch. 101, § 1, 40 Stat. 606.)

ADMINISTRATION EXPENSES; COMPENSATION;
RESTRICTION ON USE OF FUNDS; APPEAL

Act June 30, 1919, ch. 4, § 18, 41 Stat. 21, appropriated \$205,000 for expenses of administration of the affairs of the Five Civilized Tribes, Oklahoma, and the compensation of employees, prohibited any part of the appropriation from being used in forwarding the undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or in forwarding uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, to the Secretary of the Interior for approval, provided that all such undisputed claims or uncontested leases (except oil and gas leases) required to be approved under existing law by the Secretary of the Interior shall be paid, approved, rejected or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma and authorized an appeal within thirty days by party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma to the Secretary of the Interior.

§ 375a. Jurisdiction of Secretary of the Interior over probate and distribution of estates not exceeding \$2,500

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 December 24, 1942, 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 December 24, 1942 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.

(Dec. 24, 1942, ch. 813, § 1, 56 Stat. 1080.)

§ 375b. Repealed. Pub. L. 96-363, § 2(a), Sept. 26, 1980, 94 Stat. 1207

Section, act Dec. 24, 1942, ch. 813, § 2, 56 Stat. 1081, set forth schedule of fees collectible by Secretary prior to distribution of estate to individuals entitled under provisions of section 375a of this title.

CANCELLATION OF ASSESSED UNPAID FEES

Authority of Secretary of the Interior to cancel unpaid fees assessed under this section prior to the repeal, see section 2(b) of Pub. L. 96-363, set out as a note under section 377 of this title.

§ 375c. Disbursement of sums not exceeding \$500 to heirs or legatees

The Secretary of the Interior is granted authority to disburse to the heirs or legatees of deceased members of the Five Civilized Tribes any sum of money on deposit to the credit of such deceased Indian or Indians, not exceeding \$500, where said decedent died seized of no lands or the lands have since been lawfully alienated. Said funds shall be disbursed on proof of death and heirship or bequest satisfactory to the Secretary of the Interior and his finding thereon shall be final and conclusive: *Provided*, That such transfer of funds so disbursed shall not be taxable.

(Aug. 12, 1953, ch. 409, § 1, 67 Stat. 558.)

§ 375d. Disposition of estates of intestate members of Cherokee, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs

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, 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 be held thereafter in trust by the United States for said nation or tribe.

(Pub. L. 91-240, May 7, 1970, 84 Stat. 203.)

§ 376. Oaths in investigations

After August 1, 1914, any officer or employee appointed or designated by the Secretary of the Interior or the Commissioner of Indian Affairs as special examiner in heirship cases shall be authorized to administer oaths in investigations committed to him: *Provided further*, That the provisions of this paragraph shall not apply to the Osage Indians nor to the Five Civilized Tribes of Indians in Oklahoma.

(Aug. 1, 1914, ch. 222, § 1, 38 Stat. 586.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 377. Repealed. Pub. L. 96-363, § 2(a), Sept. 26, 1980, 94 Stat. 1207

Section, acts Jan. 24, 1923, ch. 42, 42 Stat. 1185; May 29, 1928, ch. 901, § 1(84), 45 Stat. 992, related to payment or deduction from trust funds, etc., of cost of determining heirs, and set forth a schedule of fees.

CANCELLATION OF ASSESSED UNPAID FEES

Section 2(b) of Pub. L. 96-363 provided that: "The Secretary of the Interior may cancel any unpaid fees assessed under the provisions repealed by this section [sections 375b and 377 of this title]."

§ 378. Partition of allotment among heirs; patents

If the Secretary of the Interior shall find that any inherited trust allotment or allotments are capable of partition to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent.

(May 18, 1916, ch. 125, § 1, 39 Stat. 127.)

§ 379. Sale of allotted lands by heirs

The adult heirs of any deceased Indian to whom a trust or other patent containing restrictions upon alienation has been or shall be issued for lands allotted to him may sell and convey the lands inherited from such decedent, but in case of minor heirs their interests shall be sold only by a guardian duly appointed by the proper court upon the order of such court, made upon petition filed by the guardian, but all such conveyances shall be subject to the approval of the Secretary of the Interior, and when so approved shall convey a full title to the purchaser, the same as if a final patent without restriction upon the alienation had been issued to the allottee. All allotted land so alienated by the heirs of an Indian allottee and all land so patented to a white allottee shall thereupon be subject to taxation under the laws of the State or Territory where the same is situate: *Provided*, That the sale herein provided for shall not apply to the homestead during the life of the father, mother or the minority of any child or children.

(May 27, 1902, ch. 888, § 7, 32 Stat. 275.)

§ 380. Lease of inherited allotments by superintendent

Restricted allotments of deceased Indians may be leased, except for oil and gas mining purposes, by the superintendents of the reservation within which the lands are located (1) when the heirs or devisees of such decedents have not been determined and (2) when the heirs or devisees of the decedents have been determined, and such lands are not in use by any of the heirs and the heirs have not been able during a three-months' period to agree upon a lease by reason

of the number of the heirs, their absence from the reservation, or for other cause, under such rules and regulations as the Secretary of the Interior may prescribe. The proceeds derived from such leases shall be credited to the estates or other accounts of the individuals entitled thereto in accordance with their respective interests.

(July 8, 1940, ch. 554, 54 Stat. 745.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 11—IRRIGATION OF ALLOTTED LANDS

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§ 381. Irrigation lands; regulation of use of water

In cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior is authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

(Feb. 8, 1887, ch. 119, § 7, 24 Stat. 390.)

§ 382. Irrigation projects under Reclamation Act

In carrying out any irrigation project which may be undertaken under the provisions of the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred