

## INDIAN AGENTS

In a communication, dated November 20, 1940, from the Office of Indian Affairs of the Department of the Interior, it was stated that there have been no Indian agents since 1908, all of the agencies and schools having been placed under the supervision of superintendents.

§ 65. Discontinuance of agents, subagents, and interpreters.

The Secretary of the Interior shall, under the direction of the President, cause to be discontinued the services of such agents, subagents, interpreters, and mechanics as may from time to time become unnecessary, in consequence of the emigration of the Indians, or other causes. (R. S. § 2073; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244.)

## DERIVATION

Act July 9, 1832, ch. 174, § 5, 4 Stat. 564.

## INDIAN AGENTS

There have been no Indian agents since 1908. See note under section 64 of this title.

§ 66. Duties of agency devolved on superintendent of Indian school.

The Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of Indian agency or part thereof upon the superintendent of the Indian school located at such agency or part thereof whenever in his judgment such superintendent can properly perform the duties of such agency. And the superintendent upon whom such duties devolve shall give bond as other Indian agents.

The pay of any superintendent who performs agency duties in addition to those of his superintendency may be increased by the Commissioner of Indian Affairs, in his discretion, to an extent not exceeding \$300 per annum. (Mar. 1, 1907, ch. 2285, 34 Stat. 1020.)

## TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

§ 67. Superintendent of training school at Cherokee Agency to act as agent.

The superintendent of the Indian training school at Cherokee, North Carolina, shall, in addition to his duties as superintendent, perform the duties required prior to March 3, 1893, of the agent at said Cherokee Agency, and receive in addition to his salary as superintendent \$200 per annum, and shall give bond as other Indian agents, and the office of agent is abolished at that place. (Mar. 3, 1893, ch. 209, § 1, 27 Stat. 614.)

## TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set

out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

## CROSS REFERENCES

Duties of agency may be devolved upon superintendent of the Indian school who must give bond and who shall receive for such duties not exceeding \$300 per annum, see section 66 of this title.

§ 68. Employees not to trade with Indians.

No person employed in Indian affairs shall have any interest or concern in any trade with the Indians, except for, and on account of, the United States; and any person offending herein, shall be liable to a penalty of \$5,000, and shall be removed from his office. (R. S. § 2078.)

## DERIVATION

Act June 30, 1834, ch. 162, § 14, 4 Stat. 738

## TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

## CROSS REFERENCES

Employees forbidden to have interest in Indian contracts, see section 437 of Title 18, Crimes and Criminal Procedure.

This section as limitation upon right of Indian employees of Government to Indian benefits, see section 441 of this title.

§ 68a. Same; purchases from Indians by employees.

Anything contained in sections 68 and 87 of this title to the contrary notwithstanding, employees of the United States Government, including those in the Indian Service, may, under such rules and regulations as the Secretary of the Interior shall prescribe, be permitted to purchase from any Indian or Indian organization any arts and crafts or any other product, service, or commodity, produced, rendered, owned, controlled, or furnished by any Indian or Indian organization: *Provided, however*, That no employee of the United States Government shall be permitted to make any such purchases for the purpose of engaging directly or indirectly in the commercial selling, reselling, trading, or bartering of said purchases by the said employee. (June 19, 1939, ch. 210, 53 Stat. 840.)

## REFERENCES IN TEXT

Section 87 of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, and is now covered by section 437 of Title 18, Crimes and Criminal Procedure.

## CODIFICATION

Section, a portion of act June 19, 1939, is duplicated as section 87a of this title. The final proviso of the act constitutes section 441 of this title.

## TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

## Chapter 2A.—INDIAN CLAIMS COMMISSION

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## CLAIMS ACCRUING AFTER AUGUST 13, 1946

This chapter relates only to claims accruing before Aug. 13, 1946. For jurisdiction of Indian claims against the United States accruing after that date, see section 1505 of Title 28, Judiciary and Judicial Procedure.

## § 70. Creation of Commission.

There is created and established an Indian Claims Commission, hereafter in this chapter referred to as the Commission. (Aug. 13, 1946, ch. 959, § 1, 60 Stat. 1049.)

## REPEAL OF INCONSISTENT PROVISIONS

Section 25 of act Aug. 13, 1946, provided: "All provisions of law inconsistent with this Act [this chapter] are hereby repealed to the extent of such inconsistency, except that existing provisions of law authorizing suits in the Court of Claims by particular tribes, bands, or groups of Indians and governing the conduct or determination of such suits shall continue to apply to any case heretofore or hereafter instituted thereunder save as provided by section 11 hereof [section 70] of this title as to the deduction of payments, offsets, counterclaims, and demands."

## SAVING CLAUSE

Section 26 of act Aug. 13, 1946, provided: "If any provision of this Act [this chapter], or the application thereof, is held invalid, the remainder of the Act [this chapter], or other applications of such provisions, shall not be affected."

## § 70a. Jurisdiction; claims considered; offsets and counterclaims.

The Commission shall hear and determine the following claims against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska: (1) claims in

law or equity arising under the Constitution, laws, treaties of the United States, and Executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant; and (5) claims based upon fair and honorable dealings that are not recognized by any existing rule of law or equity. No claim accruing after August 13, 1946, shall be considered by the Commission.

All claims under this chapter may be heard and determined by the Commission notwithstanding any statute of limitations or laches, but all other defenses shall be available to the United States.

In determining the quantum of relief the Commission shall make appropriate deductions for all payments made by the United States on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 250 of Title 28; the Commission may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that it is declared to be the policy of Congress that monies spent for the removal of the claimant from one place to another at the request of the United States, or for agency or other administrative, educational, health or highway purposes, or for expenditures made prior to the date of the law, treaty or Executive Order under which the claim arose, or for expenditures made pursuant to sections 461, 462, 463, 464, 465, 466—470, 471—473, 474, 475, 476—478 and 479 of this title, save expenditures made under section 465 of this title, or for expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award. (Aug. 13, 1946, ch. 959, § 2, 60 Stat. 1050.)

## REFERENCES IN TEXT

Section 250 of Title 28, referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and is now covered by sections 1491, 1496, 1501, 1503, and 2501 of Title 28, Judiciary and Judicial Procedure.

## CROSS REFERENCES

Jurisdiction of Indian claims against the United States accruing after August 13, 1946, see section 1505 of Title 28, Judiciary and Judicial Procedure.

## § 70b. Members of Commission.

## (a) Appointment; salary; qualifications; oath.

The Commission shall consist of a Chief Commissioner and two Associate Commissioners, who shall be appointed by the President, by and with the advice and consent of the Senate. At all times at least two members of the Commission shall be members of the bar of the Supreme Court of the United States in good standing: *Provided*, That not more than two of the members shall be of the same political party. Each of them shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office.

## (b) Term of office; vacancies; removal.

The Commissioners shall hold office during their good behavior until the dissolution of the Commission as hereinafter in this chapter provided. Vacancies shall be filled in the same manner as the original appointments. Members of the Commission may be removed by the President for cause after notice and opportunity to be heard.

## (c) Not to engage in other vocations or represent tribes; penalty.

No Commissioner shall engage in any other business, vocation, or employment during his term of office nor shall he, during his term of office or for a period of two years thereafter, represent any Indian tribe, band, or group in any matter whatsoever, or have any financial interest in the outcome of any tribal claim. Any person violating the provisions of this subdivision shall be fined not more than \$10,000 or imprisoned not more than two years, or both.

## (d) Quorum.

Two members shall constitute a quorum, and the agreement of two members shall be necessary to any and all determinations for the transaction of the business of the Commission, and, if there be a quorum, no vacancy shall impair or affect the business of the Commission, or its determinations. (Aug. 13, 1946, ch. 959, § 3, 60 Stat. 1050; Oct. 15, 1949, ch. 695, § 6 (a), 63 Stat. 881; July 31, 1956, ch. 804, title I, § 106 (c), 70 Stat. 739.)

## CODIFICATION

Provisions of subsec. (a) which prescribed the basic compensation of the Commissioners were omitted to conform to the provisions of act July 31, 1956, and are now covered by section 2205 (c) of Title 5, Executive Departments and Government Officers and Employees.

## AMENDMENTS

1949—Subsec. (a) amended by act Oct. 15, 1949, to increase compensation of Commissioners from \$12,000 to \$14,000 per annum.

## EFFECTIVE DATE OF 1949 AMENDMENT

The increased compensation provided for by act Oct. 15, 1949, took effect on the first day of the first pay period which began after Oct. 15, 1949 by the provisions of section 9 of said act Oct. 15, 1949, which is set out as a note under section 273 of Title 2, The Congress.

## § 70c. Staff of Commission; oath.

The Commission shall appoint a clerk and such other employees as shall be requisite to conduct the

business of the Commission. All such employees shall take oath for the faithful discharge of their duties and shall be under the direction of the Commission in the performance thereof. (Aug. 13, 1946, ch. 959, § 4, 60 Stat. 1051.)

## § 70d. Principal office.

The principal office of the Commission shall be in the District of Columbia. (Aug. 13, 1946, ch. 959, § 5, 60 Stat. 1051.)

## § 70e. Expenses of Commission.

All necessary expenses of the Commission shall be paid on the presentation of itemized vouchers therefor approved by the Chief Commissioner or other member or officer designated by the Commission. (Aug. 13, 1946, ch. 959, § 6, 60 Stat. 1051.)

## § 70f. Time of meetings.

The time of the meetings of the Commission shall be prescribed by the Commission. (Aug. 13, 1946, ch. 959, § 7, 60 Stat. 1051.)

## § 70g. Record of proceedings; public inspection.

A full written record shall be kept of all hearings and proceedings of the Commission and shall be open to public inspection. (Aug. 13, 1946, ch. 959, § 8, 60 Stat. 1051.)

## § 70h. Control of procedure.

The Commission shall have power to establish its own rules of procedure. (Aug. 13, 1946, ch. 959, § 9, 60 Stat. 1051.)

## § 70i. Presentation of claims.

Any claim within the provisions of this chapter may be presented to the Commission by any member of an Indian tribe, band, or other identifiable group of Indians as the representative of all its members; but wherever any tribal organization exists, recognized by the Secretary of the Interior as having authority to represent such tribe, band, or group, such organization shall be accorded the exclusive privilege of representing such Indians, unless fraud, collusion, or laches on the part of such organization be shown to the satisfaction of the Commission. (Aug. 13, 1946, ch. 959, § 10, 60 Stat. 1052.)

## § 70j. Suits in Court of Claims under prior acts; transfer forbidden; offsets and counterclaims.

Any suit pending in the Court of Claims or the Supreme Court of the United States or which shall be filed in the Court of Claims under existing legislation, shall not be transferred to the Commission: *Provided*, That the provisions of section 70a of this title, with respect to the deduction of payments, offsets, counterclaims and demands, shall supersede the provisions of the particular jurisdictional Act under which any pending or authorized suit in the Court of Claims has been or will be authorized: *Provided further*, That the Court of Claims in any suit pending before it on August 13, 1946, shall have exclusive jurisdiction to hear and determine any claim based upon fair and honorable dealings arising out of the subject matter of any such suit. (Aug. 13, 1946, ch. 959, § 11, 60 Stat. 1052.)

**§ 70k. Limitation of time for presenting claims.**

The Commission shall receive claims for a period of five years after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress. (Aug. 13, 1940, ch. 959, § 12, 60 Stat. 1052.)

**§ 70l. Notice to tribes; investigation of claims; availability of data.**

(a) As soon as practicable the Commission shall send a written explanation of the provisions of this chapter to the recognized head of each Indian tribe and band, and to any other identifiable groups of American Indians existing as distinct entities, residing within the territorial limits of the United States and Alaska, and to the superintendents of all Indian agencies, who shall promulgate the same, and shall request that a detailed statement of all claims be sent to the Commission, together with the names of aged or invalid Indians from whom depositions should be taken immediately and a summary of their proposed testimonies.

(b) The Commission shall establish an Investigation Division to investigate all claims referred to it by the Commission for the purpose of discovering the facts relating thereto. The Division shall make a complete and thorough search for all evidence affecting each claim, utilizing all documents and records in the possession of the Court of Claims and the several Government departments, and shall submit such evidence to the Commission. The Division shall make available to the Indians concerned and to any interested Federal agency any data in its possession relating to the rights and claims of any Indian. (Aug. 13, 1946, ch. 959, § 13, 60 Stat. 1052.)

**CROSS REFERENCES**

Jurisdiction of Indian claims against the United States accruing after August 13, 1946, see section 1505 of Title 28, Judiciary and Judicial Procedure.

**§ 70m. Information from governmental departments; official records as evidence.**

The Commission shall have the power to call upon any of the departments of the Government for any information it may deem necessary, and shall have the use of all records, hearings, and reports made by the committees of each House of Congress, when deemed necessary in the prosecution of its business.

At any hearing held under this chapter, any official letter, paper, document, map, or record in the possession of any officer or department, or court of the United States or committee of Congress (or a certified copy thereof), may be used in evidence insofar as relevant and material, including any deposition or other testimony of record in any suit or proceeding in any court of the United States to which an Indian or Indian tribe or group was a party, and the appropriate department of the Government of the United States shall give to the attorneys for all tribes or groups full and free access to such letters, papers, documents, maps, or records as may be useful to said attorneys in the preparation of any claim instituted under this chapter, and shall afford facilities for the examination of the same and, upon written request

by said attorneys, shall furnish certified copies thereof. (Aug. 13, 1940, ch. 959, § 14, 60 Stat. 1052.)

**§ 70n. Attorneys of claimants; selection, practice and fees; Attorney General to represent United States; compromise of claims.**

Each such tribe, band, or other identifiable group of Indians may retain to represent its interests in the presentation of claims before the Commission an attorney or attorneys at law, of its own selection, whose practice before the Commission shall be regulated by its adopted procedure. The fees of such attorney or attorneys for all services rendered in prosecuting the claim in question, whether before the Commission or otherwise, shall, unless the amount of such fees is stipulated in the approved contract between the attorney or attorneys and the claimant, be fixed by the Commission at such amount as the Commission, in accordance with standards obtaining for prosecuting similar contingent claims in courts of law, finds to be adequate compensation for services rendered and results obtained, considering the contingent nature of the case, plus all reasonable expenses incurred in the prosecution of the claim; but the amount so fixed by the Commission, exclusive of reimbursements for actual expenses, shall not exceed 10 per centum of the amount recovered in any case. The attorney or attorneys for any such tribe, band, or group as shall have been organized pursuant to section 476 of this title, shall be selected pursuant to the constitution and bylaws of such tribe, band, or group. The employment of attorneys for all other claimants shall be subject to the provisions of sections 81, 82, 83, and 84 of this title.

The Attorney General or his assistants shall represent the United States in all claims presented to the Commission, and shall have authority, with the approval of the Commission, to compromise any claim presented to the Commission. Any such compromise shall be submitted by the Commission to the Congress as a part of its report as provided in section 70t of this title in the same manner as final determinations of the Commission, and shall be subject to the provisions of section 70u of this title. (Aug. 13, 1946, ch. 959, § 15, 60 Stat. 1053.)

**REFERENCES IN TEXT**

Section 83 of this title, referred to in the text, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 882, and is now covered by section 438 of Title 18, Crimes and Criminal Procedure.

**§ 70o. Members of Congress forbidden to practice before Commission.**

No Senator or Member of or Delegate to Congress shall, during his continuance in office, practice before the Commission. (Aug. 13, 1946, ch. 959, § 16, 60 Stat. 1053.)

**§ 70p. Hearings.**

The Commission shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making any final determination upon any claim. Hearings may be held in any part of the United States or in the Territory of Alaska. (Aug. 13, 1946, ch. 959, § 17, 60 Stat. 1053.)

**§ 70q. Testimony of witnesses; depositions; fees.**

Any member of the Commission or any employee of the Commission, designated in writing for the purpose by the Chief Commissioner, may administer oaths and examine witnesses. Any member of the Commission may require by subpoena (1) the attendance and testimony of witnesses, and the production of all necessary books, papers, documents, correspondence, and other evidence, from any place in the United States or Alaska at any designated place of hearing; or (2) the taking of depositions before any designated individual competent to administer oaths under the laws of the United States or of any State or Territory. In the case of a deposition, the testimony shall be reduced to writing by the individual taking the deposition or under his direction and shall be subscribed by the deponent. In taking testimony, opportunity shall be given for cross-examination, under such regulations as the Commission may prescribe. Witnesses subpoenaed to testify or whose depositions are taken pursuant to this chapter, and the officers or persons taking the same, shall severally be entitled to the same fees and mileage as are paid for like services in the courts of the United States. (Aug. 13, 1946, ch. 959, § 18, 60 Stat. 1054.)

**§ 70r. Final determinations of Commission.**

The final determination of the Commission shall be in writing, shall be filed with its clerk, and shall include (1) its findings of the facts upon which its conclusions are based; (2) a statement (a) whether there are any just grounds for relief of the claimant and, if so, the amount thereof; (b) whether there are any allowable offsets, counterclaims, or other deductions, and, if so, the amount thereof; and (3) a statement of its reasons for its findings and conclusions. (Aug. 13, 1946, ch. 959, § 19, 60 Stat. 1054.)

**§ 70s. Review by Court of Claims and Supreme Court.**

(a) In considering any claim the Commission at any time may certify to the Court of Claims any definite and distinct questions of law concerning which instructions are desired for the proper disposition of the claim; and thereupon the Court of Claims may give appropriate instructions on the questions certified and transmit the same to the Commission for its guidance in the further consideration of the claim.

(b) When the final determination of the Commission has been filed with the clerk of said Commission the clerk shall give notice of the filing of such determination to the parties to the proceeding in manner and form as directed by the Commission. At any time within three months from the date of the filing of the determination of the Commission with the clerk either party may appeal from the determination of the Commission to the Court of Claims, which Court shall have exclusive jurisdiction to affirm, modify, or set aside such final determination. On said appeal the Court shall determine whether the findings of fact of the Commission are supported by substantial evidence, in which event they shall be conclusive, and also whether the conclusions of law, including any conclusions respecting "fair and honorable dealings", where applicable, stated by the Commission as a basis for its

final determination, are valid and supported by the Commission's findings of fact. In making the foregoing determinations, the Court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error. The Court may at any time remand the cause to the Commission for such further proceedings as it may direct, not inconsistent with the foregoing provisions of this section. The Court shall promulgate such rules of practice as it may find necessary to carry out the foregoing provisions of this section.

(c) Determinations of questions of law by the Court of Claims under this section shall be subject to review by the Supreme Court of the United States in the manner prescribed by section 288 of Title 28. (Aug. 13, 1946, ch. 959, § 20, 60 Stat. 1054.)

**REFERENCES IN TEXT**

Section 288 of Title 28, referred to in the text, was repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, and is now covered by section 1255 of Title 28, Judiciary and Judicial Procedure.

**§ 70t. Report of determination of claim to Congress.**

In each claim, after the proceedings have been finally concluded, the Commission shall promptly submit its report to Congress.

The report to Congress shall contain (1) the final determination of the Commission; (2) a transcript of the proceedings or judgment upon review, if any, with the instructions of the Court of Claims; and (3) a statement of how each Commissioner voted upon the final determination of the claim. (Aug. 13, 1946, ch. 959, § 21, 60 Stat. 1055.)

**§ 70u. Payment of claim after final determination; adverse determination as bar to further claims.**

(a) When the report of the Commission determining any claimant to be entitled to recover has been filed with Congress, such report shall have the effect of a final judgment of the Court of Claims, and there is authorized to be appropriated such sums as are necessary to pay the final determination of the Commission.

The payment of any claim, after its determination in accordance with this chapter, shall be a full discharge of the United States of all claims and demands touching any of the matters involved in the controversy.

(b) A final determination against a claimant made and reported in accordance with this chapter shall forever bar any further claim or demand against the United States arising out of the matter involved in the controversy. (Aug. 13, 1946, ch. 959, § 22, 60 Stat. 1055.)

**§ 70v. Dissolution of Commission.**

The existence of the Commission shall terminate at the end of five years from and after April 10, 1957, or at such earlier time as the Commission shall have made its final report to the Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States. (Aug. 13, 1946, ch. 959, § 23, 60 Stat. 1055; July 24, 1956, ch. 679, 70 Stat. 624.)

**AMENDMENTS**

1956—Act July 24, 1956, amended section by substituting the words "five years from and after April 10, 1957,"

or at such earlier time" for "ten years after the first meeting of the Commission or at such earlier time after the expiration of the five-year period of limitation set forth in section 70k of this title".

§ 70w. Repealed. May 24, 1949, ch. 139, § 142, 62 Stat. 109

Section, act Aug. 13, 1946, ch. 959, § 24, 60 Stat. 1055, related to Indian claims accruing after Aug. 13, 1946, and is now covered by section 1505 of Title 28, Judiciary and Judicial Procedure.

### Chapter 3.—AGREEMENTS WITH INDIANS

#### TREATIES

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#### CONTRACTS WITH INDIANS

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#### TREATIES

##### § 71. Future treaties with Indian tribes.

No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty; but no obligation of any treaty lawfully made and ratified with any such Indian nation or tribe prior to March 3, 1871, shall be invalidated or impaired. (R. S. § 2079.)

#### DERIVATION

Act Mar. 3, 1871, ch. 120, § 1, 16 Stat. 566.

#### CROSS REFERENCES

Organization and incorporation of Indian tribes, see sections 476 and 477 of this title.

##### § 72. Abrogation of treaties.

Whenever the tribal organization of any Indian tribe is in actual hostility to the United States, the President is authorized, by proclamation, to declare all treaties with such tribe abrogated by such tribe if in his opinion the same can be done consistently with good faith and legal and national obligations. (R. S. § 2080.)

#### DERIVATION

Act July 5, 1862, ch. 135, § 1, 12 Stat. 528.

#### CONTRACTS WITH INDIANS

##### § 81. Contracts with Indian tribes or Indians.

No agreement shall be made by any person with any tribe of Indians, or individual Indians not citizens of the United States, for the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring

any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing, and a duplicate of it delivered to each party.

Second. It shall bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupations; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the source from which it is to be collected, the disposition to be made of it when collected, the amount or rate per centum of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement, it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid to any person by any Indian or tribe, or any one else, for or on his or their behalf, on account of such services, in excess of the amount approved by the commissioner and secretary for such services, may be recovered by suit in the name of the United States in any court of the United States, regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same, and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid. (R. S. § 2103; Aug. 27, 1958, Pub. L. 85-770, 72 Stat. 927.)

#### DERIVATION

Acts Mar. 3, 1871, ch. 120, § 3, 16 Stat. 570; May 21, 1872, ch. 177, §§ 1, 2, 17 Stat. 136.

#### AMENDMENTS

1958—Pub. L. 85-770 amended section to delete from par. Second requirement that contracts with Indian tribes be executed before a judge of a court of record and to delete par. Sixth enumerating contractual elements to be certified to by the judge.

#### TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of the Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in note under section 481 of Title 5, Executive Departments and Government Officers and Employees.

#### CROSS REFERENCES

Forfeiture of money received contrary to this section and punishment by fine or imprisonment, see section 438 of Title 18, Crimes and Criminal Procedure