

PUBLIC ACTS OF THE FIFTY-EIGHTH CONGRESS

OF THE

UNITED STATES

Passed at the third session, which was begun and held at the city of Washington, in the District of Columbia, on Monday, the fifth day of December, 1904, and was adjourned without day on Friday, the third day of March, 1905.

THEODORE ROOSEVELT, President; WILLIAM P. FRYE, President of the Senate *pro tempore*; JOSEPH G. CANNON, Speaker of the House of Representatives.

CHAP. 20.—An Act To fix the rank of certain officers in the Army.

December 20, 1904.
[S. 2114.]

[Public, No. 1.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any second lieutenant of the United States Marine Corps who may have been appointed second lieutenant of artillery since the second day of February, nineteen hundred and one, and prior to the passage of this Act, shall, in determining his lineal and relative rank, be entitled to the same credit for prior commissioned service as a lieutenant of volunteers appointed under the Act entitled "An Act to increase the efficiency of the permanent military establishment of the United States," approved February second, nineteen hundred and one.

Army.
Credit to artillery lieutenants for Marine Corps service.

Vol. 31, p. 756.

Approved, December 20, 1904.

CHAP. 21.—An Act Authorizing the Secretary of the Interior to authorize the building of a bridge across Thief River, in the State of Minnesota.

December 21, 1904.
[S. 708.]

[Public, No. 2.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and empowered to authorize the proper public municipal authorities to construct a free wagon bridge across Thief River, in the State of Minnesota, at such point and subject to such conditions and restrictions as he may designate and require.

Thief River, Minn.
Construction of a free wagon bridge across, authorized.

Approved, December 21, 1904.

CHAP. 22.—An Act To authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation, in the State of Washington.

December 21, 1904.
[H. R. 14468.]

[Public, No. 3.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed, as hereinafter

Yakima Indian Reservation, Wash.
Sale of unallotted lands.

provided, to sell or dispose of unallotted lands embraced in the Yakima Indian Reservation proper, in the State of Washington, set aside and established by treaty with the Yakima Nation of Indians, dated June eighth, eighteen hundred and fifty-five: *Provided*, That the claim of said Indians to the tract of land adjoining their present reservation on the west, excluded by erroneous boundary survey and containing approximately two hundred and ninety-three thousand eight hundred and thirty-seven acres, according to the findings, after examination, of Mr. E. C. Barnard, topographer of the Geological Survey, approved by the Secretary of the Interior April seventh, nineteen hundred, is hereby recognized, and the said tract shall be regarded as a part of the Yakima Indian Reservation for the purposes of this Act: *Provided further*, That where valid rights have been acquired prior to March fifth, nineteen hundred and four, to lands within said tract by bona fide settlers or purchasers under the public-land laws, such rights shall not be abridged, and any claim of said Indians to these lands is hereby declared to be fully compensated for by the expenditure of money heretofore made for their benefit and in the construction of irrigation works on the Yakima Indian Reservation.

Vol. 12, p. 951.

Provisos.
Prior claim recognized.

Rights of settlers not affected.

Allotments.

Lands reserved for irrigation, etc.

Proviso.
Classification, etc., of reserved lands.

Appraisal of unallotted lands, etc.

Opening of lands for settlement.

Provisos.
Soldiers' and sailors' rights not affected.
R. S., secs. 2304, 2305, p. 422.
Vol. 31, p. 847.

Price and payments.

SEC. 2. That allotments of land shall be made, under the direction of the Secretary of the Interior, to any Indians entitled thereto, including children now living born since the completion of the existing allotments who have not heretofore received such allotments. The Secretary of the Interior is also authorized to reserve such lands as he may deem necessary or desirable in connection with the construction of contemplated irrigation systems, or lands crossed by existing irrigation ditches; also lands necessary for agency, school, and religious purposes; also such tract or tracts of grazing and timber lands as may be deemed expedient for the use and benefit of the Indians of said reservation in common: *Provided*, That such reserved lands, or any portion thereof, may be classified, appraised, and disposed of from time to time under the terms and provisions of this Act.

SEC. 3. That the residue of the lands of said reservation—that is, the lands not allotted and not reserved—shall be classified under the direction of the Secretary of the Interior as irrigable lands, grazing lands, timber lands, mineral lands, or arid lands, and shall be appraised under their appropriate classes by legal subdivisions, with the exception of the mineral lands, which need not be appraised, and the timber on the lands classified as timber lands shall be appraised separately from the land. The basis for the appraisal of the timber shall be the amount of standing merchantable timber thereon, which shall be ascertained and reported.

Upon completion of the classification and appraisements the irrigable, grazing, and arid lands, and the timbered lands upon the completion of the classification, appraisal, and the sale and removal of the timber therefrom, shall be disposed of under the general provisions of the homestead laws of the United States, and shall be opened to settlement and entry at not less than their appraised value by proclamation of the President, which proclamation shall prescribe the manner in which these lands shall be settled upon, occupied, and entered by persons entitled to make entry thereof, and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: *Provided*, That the rights of honorably discharged Union soldiers and sailors of the late civil and Spanish wars and the Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: *Provided further*, That the price of said lands when

entered shall be that fixed by the appraisalment or by the President, as herein provided for, which shall be paid in accordance with rules and regulations to be prescribed by the Secretary of the Interior, upon the following terms: One-fifth of the purchase price to be paid in cash at the time of entry, and the balance in five equal annual installments, to be paid in one, two, three, four, and five years, respectively, from and after the date of entry. In case any entryman fails to make the annual payments, or any of them, promptly when due, all rights in and to the land covered by his entry shall cease, and any payments theretofore made shall be forfeited and the entry canceled, and the lands shall be reoffered for sale and entry: *And provided further*, That the lands embraced within such canceled entry shall, after the cancellation of such entry, be subject to entry under the provisions of the homestead law, at the appraised value until otherwise directed by the President, as herein provided.

When the entryman shall have complied with all the requirements and terms of the homestead laws as to settlement and residence and shall have made all the required payments aforesaid, he shall be entitled to a patent for the lands entered: *Provided*, That the entryman shall make his final proofs in accordance with the homestead laws within six years; and that aliens who have declared their intention to become citizens of the United States may become such entrymen, but before making final proof and receiving patent they must have received their full naturalization papers: *Provided further*, That the fees and commissions to be paid in connection with such entries and final proofs shall be the same as those now provided by law where the price of the land is one dollar and twenty-five cents per acre: *And provided further*, That the Secretary of the Interior may, in his discretion, limit the quantity of irrigable land that may be taken by any entryman to eighty acres, but not to less than that quantity: *And provided further*, That when, in the judgment of the President, no more of the said land can be disposed of at the appraised price, he may, by proclamation, to be repeated at his discretion, sell from time to time the remaining lands subject to the provisions of the homestead law, or otherwise as he may deem most advantageous, at such price or prices, in such manner, upon such conditions, with such restrictions, and upon such terms as he may deem best for all the interests concerned.

The timber on lands classified as timber lands shall be sold at not less than its appraised value, under sealed proposals in accordance with such rules and regulations as the Secretary of the Interior may prescribe.

The lands classified as mineral lands shall be subject to location and disposal under the mineral-land laws of the United States: *Provided*, That lands not classified as mineral may also be located and entered as mineral lands, subject to approval by the Secretary of the Interior and conditioned upon the payment, within one year from the date when located, of the appraised value of the lands per acre fixed prior to the date of such location, but at not less than the price fixed by existing law for mineral lands: *Provided further*, That no such mineral locations shall be permitted on any lands allotted to Indians in severalty or reserved for any purpose as herein authorized.

SEC. 4. That the proceeds arising from the sale and disposition of the lands aforesaid, including the sums paid for mineral lands, exclusive of the customary fees and commissions, shall, after deducting the expenses incurred from time to time in connection with the appraisements and sales, be deposited in the Treasury of the United States to the credit of the Indians belonging and having tribal rights on the Yakima Reservation, and shall be expended for their benefit under the direction of the Secretary of the Interior in the construction, completion, and maintenance of irrigation ditches, purchase of

Forfeiture.

Canceled entries.

Patents to lands.

Provisos.
Final proofs.

Fees, etc.

Acreeage of irrigable lands may be limited.

Sale of remaining lands.

Sale of timber.

Mineral lands.
Provisos.
Lands not classified as mineral lands.

Restriction.

Use of proceeds.

Aid to civilized pursuits.

wagons, horses, farm implements, materials for houses, and other necessary and useful articles, as may be deemed best to promote their welfare and aid them in the adoption of civilized pursuits and in improving and building homes for themselves on their allotments: *Provided*, That a portion of the proceeds may be paid to the Indians in cash per capita, share and share alike, if in the opinion of the Secretary of the Interior such payments will further tend to improve the condition and advance the progress of said Indians, but not otherwise.

Proviso.
Per capita cash pay-
ments.

Water rent.

SEC. 5. That the Secretary of the Interior is hereby authorized, in the cases of entrymen and purchasers of lands now irrigated or that may be hereafter irrigated from systems constructed for the benefit of the Indians, to require such annual proportionate payments to be made as may be just and equitable for the maintenance of said systems: *Provided*, That in appraising the value of irrigable lands, such sum per acre as the Secretary of the Interior may deem proper, to be determined as nearly as may be by the total cost of the irrigation system or systems, shall be added as the proportionate share of the cost of placing water on said lands, and when the entryman or purchaser shall have paid in full the appraised value of the land, including the cost of providing water therefor, the Secretary of the Interior shall give to him such evidence of title in writing to a perpetual water right as may be deemed suitable: *Provided*, That the Secretary of the Interior shall have power to determine and direct when the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense, under such forms of organization and under such rules and regulations as may be acceptable to him: *Provided also*, That the title to and the management and operation of the reservoirs, and the works necessary for their protection and operation, shall remain in the Government until otherwise provided by Congress.

Provisos.
Perpetual water
rights.

Maintenance of irri-
gation works.

Reservoirs.

Regulations.

SEC. 6. That the Secretary of the Interior is hereby vested with full power and authority to make all needful rules and regulations as to manner of sale, notice of same, and other matters incident to the carrying out of the provisions of this Act, and with authority to reappraise and reclassify said lands if deemed necessary from time to time, and to continue making sales of the same, in accordance with the provisions of this Act, until all of the lands shall have been disposed of.

Nonresponsibility of
the United States.

SEC. 7. That nothing in this Act contained shall be construed to bind the United States to find purchasers for any of said lands, it being the purpose of this Act merely to have the United States to act as trustee for said Indians in the disposition and sales of said lands and to expend or pay over to them the proceeds derived from the sales as herein provided.

Expense of survey,
etc.

SEC. 8. That to enable the Secretary of the Interior to classify and appraise the aforesaid lands as in this Act provided, and to conduct the sales thereof, and to define and mark the boundaries of the western portion of said reservation, including the adjoining tract of two hundred and ninety-three thousand eight hundred and thirty-seven acres, to which the claim of the Indians is, by this Act, recognized, as above set out, and to complete the surveys thereof, the sum of fifty-three thousand dollars, or so much thereof as may be necessary, is hereby appropriated from any moneys in the Treasury not otherwise appropriated, the same to be reimbursed from the proceeds of the sales of the aforesaid lands: *Provided*, That when funds shall have been procured from the first sales of the land the Secretary of the Interior may use such portion thereof as may be actually necessary in conducting future sales and otherwise carrying out the provisions of this Act.

Appropriation.

Proviso.
Future sales, etc.

Approved, December 21, 1904.