

the tribe or otherwise, the land shall escheat to the tribe or group which has succeeded to the jurisdiction of the original tribe over the area in question. If neither the tribe which owned the land at the time of allotment nor a successor tribe or group exists, the land or interest therein shall be held in trust for such Indians as the Secretary may designate within the State or States wherein the land is situated or, if the Secretary determines that the land cannot appropriately be used by or for such Indians, it shall be sold, subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder, and the proceeds of such sale shall be held in trust for such Indians as the Secretary may designate, within the State or States wherein the land is situated. (Nov. 24, 1942, ch. 640, §1, 56 Stat. 1021.)

#### SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in section 373c of this title.

#### § 373b. Restricted estate or homestead on the public domain

If an Indian found to have died intestate without heirs was the holder of a restricted allotment or homestead or interest therein on the public domain, the land or interest therein and all accumulated rents, issues, and profits therefrom shall escheat to the United States, subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder, and the land shall become part of the public domain subject to the payment of such creditors' claims as the Secretary of the Interior may find proper to be paid from the cash on hand or income accruing to said estate: *Provided*, That if the Secretary determines that the land involved lies within or adjacent to an Indian community and may be advantageously used for Indian purposes, the land or interest therein shall escheat to the United States to be held in trust for such needy Indians as the Secretary of the Interior may designate, where the value of the estate does not exceed \$50,000, and in case of estates exceeding said sum, such estates shall be held in trust by the United States for such Indians as the Congress may on and after November 24, 1942 designate, subject to all valid existing agricultural, surface, and mineral leases and the rights of any person thereunder<sup>1</sup> *Provided further*, That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation.

(Nov. 24, 1942, ch. 640, §2, 56 Stat. 1022; Pub. L. 98-25, §§2, 3, May 2, 1983, 97 Stat. 185.)

#### AMENDMENTS

1983—Pub. L. 98-25, §2, inserted proviso that interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation.

<sup>1</sup> So in original. Probably should be followed by a colon.

Pub. L. 98-25, §3, substituted "\$50,000" for "\$2,000".

#### NON-INDIAN LANDS IN HARNEY COUNTY, OREGON

Section 2 of Pub. L. 98-25 provided in part that no non-Indian lands in Harney County, Oregon, shall be considered Indian country as defined in section 1151 of Title 18, Crimes and Criminal Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 373c of this title.

#### § 373c. Sections 373a and 373b as inapplicable to certain Indians

The provisions of sections 373a and 373b of this title shall not apply to the Indians of the Five Civilized Tribes or the Osage Reservation, in Oklahoma.

(Nov. 24, 1942, ch. 640, §3, 56 Stat. 1022.)

#### § 374. Attendance of witnesses

The authority delegated to judges of the United States courts by section 24 of title 35 is conferred upon the Secretary of the Interior to require the attendance of witnesses at hearings, upon proper showing by any of the parties to determine the heirs of decedents, held in accordance with sections 372 and 373 of this title, under such rules and regulations as he may prescribe.

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

#### CODIFICATION

"Section 24 of title 35" substituted in text for "section 56 of title 35" on authority of act July 19, 1952, ch. 950, 66 Stat. 792, section 1 of which enacted Title 35, Patents.

#### § 375. Determination of heirship of deceased members of Five Civilized Tribes

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

ceased 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