

# S. 1413

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## IN THE SENATE OF THE UNITED STATES

MARCH 8, 1965

Mr. JACKSON (by request) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

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## A BILL

To provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That the following sections of this Act shall become effective  
4 on the date a majority of the number of the adult members of  
5 the tribes voting in a referendum approve a termination of  
6 Federal supervision in accordance with those sections. The  
7 Secretary of the Interior shall conduct a referendum to ascer-  
8 tain the wishes of the enrolled adult members within ninety

1 days after the enactment of this Act in accordance with such  
2 rules and regulations as he may prescribe.

3       SEC. 2. The purpose of this Act is to provide for the  
4 termination of Federal supervision over the trust and re-  
5 stricted property of the Confederated Tribes of the Colville  
6 Indian Reservation, Washington, and of the individual mem-  
7 bers thereof, for the disposition of federally owned property  
8 acquired or withdrawn for the administration of the affairs of  
9 said Indians, and for a termination of Federal services fur-  
10 nished such Indians because of their status as Indians.

11       SEC. 3. For the purposes of this Act:

12       (a) "Tribes" means the Confederated Tribes of the Col-  
13 ville Indian Reservation, Washington.

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

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

17       (d) "Tribal property" means any real or personal prop-  
18 erty, including water rights, or any interest in real or per-  
19 sonal property, that belongs to the tribes and either is held  
20 by the United States in trust for the tribes or is subject to  
21 a restriction against alienation imposed by the United States.

22       (e) "Adult" means a member of the tribes who is an  
23 adult according to the law of the place of his residence.

24       SEC. 4. At midnight of the date this section becomes  
25 effective the roll of the tribes shall be closed and no child born

1 hereafter shall be eligible for enrollment: *Provided*, That  
2 the tribes shall have a period of six months from the date this  
3 section becomes effective in which to prepare and submit to the  
4 Secretary a proposed roll of the members of the tribes living  
5 on the date this section becomes effective, which shall be pub-  
6 lished in the Federal Register. If the tribes fail to submit  
7 such roll within the time specified in this section, the Secre-  
8 tary shall prepare a proposed roll for the tribes which shall be  
9 published in the Federal Register. Any person claiming  
10 membership rights in the tribes or an interest in the assets of  
11 the tribes, or a representative of the Secretary on behalf of any  
12 such person, may, within ninety days from the date of pub-  
13 lication of the proposed roll, file an appeal with the Secretary  
14 contesting the inclusion or omission of the name of any person  
15 on or from such roll. The Secretary shall review such ap-  
16 peals and his decisions thereon shall be final and conclusive.  
17 After disposition of all such appeals, the roll of the tribes  
18 shall be published in the Federal Register, and such roll shall  
19 be final for the purposes of this Act.

20 SEC. 5. Upon publication in the Federal Register of the  
21 final roll as provided in section 4 of this Act, the beneficial  
22 interest in tribal property of each person whose name ap-  
23 pears on the roll shall constitute personal property which  
24 may be inherited or bequeathed, but shall not otherwise be  
25 subject to alienation or encumbrance before the transfer of

1 title to such tribal property as provided in section 7 of this  
2 Act without the approval of the Secretary. Any contract  
3 made in violation of this section shall be null and void.  
4 Property which this section makes subject to inheritance  
5 or bequest and which is inherited or bequeathed after the  
6 effective date of this section and prior to the transfer of  
7 title to tribal property as provided in section 7 of this Act  
8 shall not be subject to State or Federal inheritance, estate,  
9 legacy, or succession taxes.

10 SEC. 6. The Secretary shall—

11 (a) within sixty days after this section becomes  
12 effective institute a program, to be completed within one  
13 year, to bring up to date all land and ownership records  
14 pertaining to lands on the Colville Indian Reservation;  
15 and immediately following completion of such program,  
16 jointly with the Secretary of Agriculture, determine what  
17 parts of the tribal lands are valuable chiefly for timber  
18 purposes, what parts are valuable chiefly for farming,  
19 what parts are valuable chiefly for grazing, and what  
20 parts are valuable chiefly for other purposes; and divide  
21 each such part into appropriate units for sale or man-  
22 agement in accordance with the provisions of this Act;

23 (b) cause separate appraisals to be made by three  
24 qualified independent appraisers of the units designated  
25 under subsection (a) for the purpose of ascertaining the

1 fair market value of each such unit. The fair market  
2 value of the timber assets shall be defined to be the mar-  
3 ket price that would be realized if the sale of the timber  
4 assets were made over a period of ten years. The Secre-  
5 tary shall determine fair market value by averaging the  
6 three appraisals;

7 (c) determine the value of tribal mineral rights  
8 (including oil and gas) in each unit;

9 (d) determine the value to the tribes of the tribal  
10 hunting and fishing rights on each unit appraised, to the  
11 extent such value is not included in the appraisal;

12 (e) cause reports of said appraisal and determina-  
13 tions of values to be delivered to all adult enrolled mem-  
14 bers of the tribes and within sixty days thereafter give to  
15 each member whose name appears on the final roll of  
16 the tribes an opportunity to elect to withdraw from the  
17 tribes and have his beneficial interest in tribal property  
18 recognized by section 5 converted into money and paid  
19 to him, or to remain in the tribes and participate in the  
20 tribal management plan to be prepared pursuant to sub-  
21 section (g) of this section; in the case of members who  
22 are minors, persons declared incompetent by judicial  
23 proceedings, or deceased, the opportunity to make such  
24 election on their behalf shall be given to the person des-  
25 ignated by the Secretary as the person best able to repre-

1 sent the interests of such member: *Provided*, That any  
2 member, or any heir or any devisee of any deceased  
3 member, for whom the Secretary has so designated a  
4 representative may (on his own behalf, through his  
5 natural guardian, or next friend) within one hundred  
6 and twenty days after receipt of written notice of such  
7 secretarial designation, contest the secretarial designation  
8 in any naturalization court for the area in which such  
9 member resides, by filing of a petition therein requesting  
10 designation of a named person other than the secretarial  
11 designee, and the burden shall thereupon devolve upon  
12 the Secretary to show cause why the member-designated  
13 representative should not represent the interests of such  
14 member, and the decision of such court shall be final and  
15 conclusive;

16 (f) select the portion of the tribal property which  
17 if sold at the appraised value would provide sufficient  
18 funds to pay the members who elect to withdraw from  
19 the tribes for their beneficial interest in the total tribal  
20 property, sell the property so selected at not less than  
21 the appraised value determined by section 6 of this Act,  
22 and pay the proceeds of the sale to the withdrawing  
23 members: *Provided*, That any tribal forest lands that  
24 are offered for sale shall be purchased by the Secretary  
25 of Agriculture with funds that are hereby authorized to

1 be appropriated, and such lands shall become national  
2 forest lands subject to the laws that are applicable to  
3 lands acquired pursuant to the Act of March 1, 1911  
4 (36 Stat. 961), as amended: *Provided further*, That  
5 any person whose name appears on the final roll of the  
6 tribes, or a guardian on behalf of any person who is a  
7 minor or an incompetent, shall have the right to pur-  
8 chase, for his or its own account but not as an agent for  
9 others, any other property in lots as offered for sale for  
10 not less than the highest offer received by competitive  
11 bid; any individual Indian purchaser who has elected  
12 to withdraw from the tribes may apply toward the pur-  
13 chase price up to 100 per centum of the amount esti-  
14 mated by the Secretary to be due him from the sale of  
15 his interest in tribal property: *Provided*, That title to  
16 lands purchased by using individual interest as collateral  
17 shall be withheld by the Secretary until distribution of  
18 the proceeds of the tribal estate as provided in this section;  
19 and if more than one right is exercised to purchase the  
20 same property pursuant to this proviso the property shall  
21 be sold to one of such persons on the basis of competitive  
22 bids;

23 (g) cause a plan to be prepared in form and con-  
24 tent satisfactory to the members who elect to remain  
25 in the tribes and to the Secretary for the management

1 of tribal property through a trustee, corporation, or  
2 other legal entity. If no plan that is satisfactory both  
3 to the members who elect to remain in the tribes and to  
4 the Secretary has been prepared six months before the  
5 time limit provided in subsection (b) of section 7 of  
6 this Act the Secretary shall adopt a plan for man-  
7 aging the tribal property, subject to the provisions of  
8 section 15 of this Act.

9 SEC. 7. (a) The Secretary is authorized and directed  
10 to execute any conveyancing instrument that is necessary  
11 or appropriate to convey title to tribal property to be sold  
12 in accordance with the provisions of section 6 of this Act,  
13 and to transfer title to all other tribal property to a trustee,  
14 corporation, or other legal entity in accordance with the plan  
15 prepared pursuant to subsection (g) of section 6 of this Act:  
16 *Provided*, That at any time prior to a transfer of such other  
17 tribal property to a trustee, corporation, or other legal entity,  
18 the Secretary may, upon request of a majority of the mem-  
19 bers who elected to remain in the tribes, sell such other  
20 tribal property and distribute the proceeds of sale among the  
21 members if he determines that such action is the more feasible  
22 and practical course to follow.

23 (b) It is the intention of the Congress that all of the  
24 actions required by sections 6 and 7 of this Act shall be  
25 completed at the earliest practicable time and in no event



1 later than four years from the date this section becomes  
2 effective.

3 (c) Members of the tribes who receive the money value  
4 of their interests in tribal property shall thereupon cease to  
5 be members of the tribes: *Provided*, That nothing shall pre-  
6 vent them from sharing in the proceeds of tribal claims  
7 against the United States.

8 SEC. 8. No funds distributed pursuant to section 6 of  
9 this Act to members who withdraw from the tribes shall be  
10 paid to any person as compensation for services pertain-  
11 ing to the enactment of this Act or amendments thereto  
12 and any person making or receiving such payments shall  
13 be guilty of a misdemeanor and shall be imprisoned for not  
14 more than six months and fined an amount equal to the  
15 payment received by him plus not more than \$500.

16 SEC. 9. (a) The Secretary is authorized and directed  
17 to transfer within four years from the date this section be-  
18 comes effective to each member of the tribes unrestricted  
19 control of funds or other personal property held in trust  
20 for such member by the United States.

21 (b) All restrictions on the sale or encumbrance of  
22 trust or restricted interests in land, wherever located, owned  
23 by members of the tribes (including allottees, purchasers,  
24 heirs, and devisees, either adult or minor), and on trust or

1 restricted interests in lands within the Colville Indian Reser-  
2 vation, regardless of ownership, are hereby removed four  
3 years after the date this section becomes effective, and the  
4 patents or deeds under which titles are then held shall pass  
5 the titles in fee simple, subject to any valid encumbrances.  
6 The titles to all interests in trust or restricted land acquired  
7 by members of the tribes by devise or inheritance four years  
8 or more after the date this section becomes effective shall  
9 vest in such members in fee simple, subject to any valid  
10 encumbrance.

11 (c) Prior to the time provided in subsection (b) of this  
12 section for the removal of restrictions on land owned by one  
13 or by more than one person, the Secretary may—

14 (1) upon request of any of the owners, partition the  
15 land and issue to each owner a patent or deed for his  
16 individual share that shall become unrestricted four years  
17 from the date this section becomes effective;

18 (2) upon request of any of the owners, and a find-  
19 ing by the Secretary that partition of all or any part of  
20 the land is not practicable, cause all or any part of the  
21 land to be sold at not less than the appraised value  
22 thereof and distribute the proceeds of sale to the owners:  
23 *Provided*, That any one or more of the owners may  
24 elect before a sale to purchase the other interests in the  
25 land at not less than the appraised value thereof, and the

1 purchaser shall receive an unrestricted patent or deed to  
2 the land; and

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

7 (d) The Secretary is hereby authorized to approve—

8 (1) the exchange of trust or restricted land between  
9 the tribes and any of the enrolled members;

10 (2) the sale by the tribes of tribal property to indi-  
11 vidual members of the tribes; and

12 (3) the exchange of tribal property for real prop-  
13 erty in fee status. Title to all real property included in  
14 any sale or exchange as provided in this subsection shall  
15 be conveyed in fee simple.

16 SEC. 10. (a) The Act of June 25, 1910 (36 Stat. 855),  
17 the Act of February 14, 1913 (37 Stat. 678), and other  
18 Acts amendatory thereto shall not apply to the probate of  
19 the trust and restricted property of the members of the tribes  
20 who die six months or more after the date this section be-  
21 comes effective.

22 (b) The laws of the several States, territories, posses-  
23 sions, and the District of Columbia with respect to the  
24 probate of wills, the determination of heirs, and the admin-  
25 istration of decedents' estates shall apply to the individual

1 property of members of the tribes who die six months or  
2 more after the date this section becomes effective.

3     SEC. 11. The Secretary is authorized, in his discretion,  
4 to transfer to the tribes or any member or group of members  
5 thereof any federally owned property acquired, withdrawn,  
6 or used for the administration of the affairs of the tribes which  
7 he deems necessary for Indian use, or to transfer to a public  
8 or nonprofit body any such property which he deems neces-  
9 sary for public use and from which members of the tribes  
10 will derive benefit.

11     SEC. 12. No property distributed under the provisions  
12 of this Act shall at the time of distribution be subject to  
13 Federal or State income tax. Following any distribution of  
14 property made under the provisions of this Act, such prop-  
15 erty and any income derived therefrom by the individual,  
16 corporation, or other legal entity shall be subject to the same  
17 taxes, State and Federal, as in the case of non-Indians:  
18 *Provided*, That, for the purpose of capital gains or losses the  
19 base value of the property shall be the value of the property  
20 when distributed to the individual, corporation, or other legal  
21 entity.

22     SEC. 13. (a) That part of section 5 of the Act of August  
23 13, 1914 (35 Stat. 687; 43 U.S.C. 499), which relates to  
24 the transfer of the care, operation, and maintenance of recla-  
25 mation works to water users associations or irrigation districts

1 shall be applicable to the irrigation works on the Colville  
2 Reservation.

3 (b) Effective on the first day of the calendar year be-  
4 ginning after the date of the proclamation provided for in  
5 section 18 of this Act, the deferment of the assessment and  
6 collection of construction costs provided for in the first proviso  
7 of the Act of July 1, 1932 (47 Stat. 564; 25 U.S.C. 386a),  
8 shall terminate with respect to any lands within irrigation  
9 projects on the Colville Reservation. The Secretary shall  
10 cause the first lien against such lands created by the Act of  
11 March 7, 1928 (45 Stat. 200, 210), to be filed of record  
12 in the appropriate county office.

13 (c) The Secretary is authorized to adjust, eliminate, or  
14 cancel all or any part of reimbursable irrigation operation and  
15 maintenance costs and reimbursable irrigation construction  
16 costs chargeable against Indian-owned lands that are subject  
17 to the provisions of this Act, and all or any part of assess-  
18 ments heretofore or hereafter imposed on account of such  
19 costs, when he determines that the collection thereof would  
20 be inequitable or would result in undue hardship on the In-  
21 dian owner of the land, or that the administrative costs of  
22 collection would probably equal or exceed the amount  
23 collected.

24 (d) Nothing contained in any other section of this Act

1 shall affect in any way the laws applicable to irrigation  
2 projects on the Colville Indian Reservation.

3       Sec. 14. Nothing in this Act shall abrogate any water  
4 rights of the tribes and their members, and the laws of the  
5 State of Washington with respect to the abandonment of  
6 water rights by nonuse shall not apply to the tribes and their  
7 members until fifteen years after the date of the proclamation  
8 issued pursuant to section 18 of this Act.

9       Sec. 15. Prior to the transfer of title to, or the removal  
10 of restrictions from, property in accordance with the pro-  
11 visions of this Act, the Secretary shall protect the rights  
12 of members of the tribes who are minors, non compos men-  
13 tis, or in the opinion of the Secretary, in need of assistance  
14 in conducting their affairs, by causing the appointment of  
15 guardians for such members in courts of competent juris-  
16 diction, or by such other means as he may deem adequate  
17 without application from the member, including but not  
18 limited to the creation of a trust of such member's property  
19 with a trustee selected by the Secretary, or the purchase by  
20 the Secretary of an annuity for such member: *Provided,*  
21 That no member shall be declared to be in need of assistance  
22 in conducting his affairs unless the Secretary determines that  
23 such member does not have sufficient ability, knowledge,  
24 experience, and judgment to enable him to manage his busi-  
25 ness affairs, including the administration, use, investment,

1 and disposition of any property turned over to such member  
2 and the income and proceeds therefrom, with such reason-  
3 able degree of prudence and wisdom as will be apt to prevent  
4 him from losing such property or the benefits thereof: *Pro-*  
5 *vided further*, That, any member determined by the Secre-  
6 tary to be in need of assistance in conducting his affairs may,  
7 within one hundred and twenty days after receipt of written  
8 notice of such secretarial determination, contest the secre-  
9 tarial determination in any naturalization court for the area  
10 in which said member resides by filing therein a petition  
11 having that purpose; the burden shall thereupon devolve  
12 upon the Secretary to show cause why such member should  
13 not conduct his own affairs, and the decision of such court  
14 shall be final and conclusive with respect to the affected  
15 member's conduct of his affairs.

16       SEC. 16. Pending the completion of the property disposi-  
17 tions provided for in this Act, the funds now on deposit, or  
18 hereafter deposited, in the United States Treasury to the  
19 credit of the tribes shall be available for advance to the  
20 tribes, or for expenditure, for such purposes as may be desig-  
21 nated by the governing body of the tribes and approved by  
22 the Secretary.

23       SEC. 17. The Secretary shall have authority to execute  
24 such patents, deeds, assignments, releases, certificates, con-  
25 tracts, and other instruments as may be necessary or appro-

1 piate to carry out the provisions of this Act, or to establish  
2 a marketable and recordable title to any property disposed  
3 of pursuant to this Act.

4       SEC. 18. (a) Upon removal of Federal restrictions on  
5 the property of the tribes and individual members thereof,  
6 the Secretary shall publish in the Federal Register a pro-  
7 clamation declaring that the Federal trust relationship to the  
8 affairs of the tribes and their members has terminated. There-  
9 after individual members of the tribes shall not be entitled  
10 to any of the services performed by the United States for  
11 Indians because of their status as Indians and, except as  
12 otherwise provided in this Act, all statutes of the United  
13 States which affect Indians because of their status as Indians  
14 shall no longer be applicable to the tribes and their mem-  
15 bers, and the laws of the several States shall apply to the  
16 tribes and their members in the same manner as they apply  
17 to other citizens or persons within their jurisdiction.

18       (b) Nothing in this Act shall affect the status of the  
19 members of the tribes as citizens of the United States.

20       SEC. 19. Effective on the date of the proclamation pro-  
21 vided for in section 18 of this Act, all powers of the Secre-  
22 tary or other officer of the United States to take, review,  
23 or approve any action under the constitution and bylaws  
24 of the tribes are hereby terminated. Any powers conferred  
25 upon the tribes by such constitution which are inconsistent



1 with the provisions of this Act are hereby terminated.  
2 Such termination shall not affect the power of the tribes  
3 to take any action under their constitution and bylaws that  
4 is consistent with this Act without the participation of the  
5 Secretary or other officer of the United States.

6 SEC. 20. The Secretary is hereby authorized and directed  
7 to transfer title to cemeteries within the Colville Reserva-  
8 tion to any organization authorized by the tribes and ap-  
9 proved by him. In the event such an organization is not  
10 formed by the tribes within eighteen months following the  
11 date this section becomes effective, the Secretary is directed  
12 to perfect the organization of a nonprofit entity empowered  
13 to accept title and maintain said cemeteries.

14 SEC. 21. The Secretary is authorized to set off against  
15 any indebtedness payable to the tribes or to the United  
16 States by any individual member of the tribes or payable  
17 to the United States by the tribes any funds payable to such  
18 individual or tribes under this Act and to deposit the amounts  
19 set off to the credit of the tribes or the United States, as the  
20 case may be.

21 SEC. 22. Nothing contained in this Act shall deprive  
22 the tribes or their constituent parts of any right, privilege,  
23 or benefit granted by the Act of August 13, 1946 (60 Stat.  
24 1049).

25 SEC. 23. Nothing in this Act shall abrogate any valid

1 lease, permit, license, right-of-way, lien, or other contract  
2 heretofore approved. Whenever any such instrument places  
3 in or reserves to the Secretary any powers, duties, or other  
4 functions with respect to the property subject thereto, the  
5 Secretary may transfer such functions, in whole or in part,  
6 to any Federal agency with the consent of such agency and  
7 may transfer such functions, in whole or in part, to a State  
8 agency with the consent of such agency and the other party  
9 or parties to such instrument.

10     **SEC. 24.** The Secretary is authorized to issue rules or  
11 regulations necessary to effectuate the purposes of this Act,  
12 and may in his discretion provide for tribal referendums on  
13 matters pertaining to management or disposition of tribal  
14 assets.

15     **SEC. 25.** All Acts or parts of Acts inconsistent with this  
16 Act are hereby repealed insofar as they affect the tribes or  
17 their members.

18     **SEC. 26.** If any provision of this Act, or the application  
19 thereof to any person or circumstance, is held invalid, the re-  
20 mainder of the Act and the application of such provision to  
21 other persons or circumstances shall not be affected thereby.

22     **SEC. 27.** Prior to the issuance of a proclamation in ac-  
23 cordance with the provisions of section 18 of this Act, the  
24 Secretary is authorized to undertake, within the limits of  
25 available appropriations, a special program of education and

1 training designed to help the members of the tribes to earn a  
2 livelihood, to conduct their own affairs, and to assume their  
3 responsibilities as citizens without special services because  
4 of their status as Indians. Such program may include lan-  
5 guage training, orientation in non-Indian community cus-  
6 toms and living standards, vocational training and related  
7 subjects, transportation to the place of training or instruction,  
8 and subsistence during the course of training or instruction.  
9 For the purposes of such program the Secretary is author-  
10 ized to enter into contracts or agreements with any Federal,  
11 State, or local governmental agency, corporation, associa-  
12 tion, or person. Nothing in this section shall preclude any  
13 Federal agency from undertaking any other program for the  
14 education and training of Indians with funds appropriated  
15 to it.

16       SEC. 28. Nothing in this Act shall affect the authority  
17 to make timber sales otherwise authorized by law prior to  
18 the termination of Federal control over such timber. If  
19 title to any of the lands comprising the Colville Indian forest  
20 is purchased by the United States, the administration of  
21 any outstanding timber sales contracts thereon entered into  
22 by the Secretary of the Interior as trustee for the tribes shall  
23 be administered by the Secretary of Agriculture.

24       SEC. 29. All sales of tribal lands pursuant to this Act  
25 on which roads are located shall be made subject to the right

1 of the United States and its assigns to maintain and use such  
2 roads.

3       SEC. 30. Any person whose name appears on the final  
4 roll of the tribes who has, since July 24, 1961, continuously  
5 resided on any forest lands purchased by the United States  
6 by this Act shall be entitled to occupy and use as a home-  
7 site for his lifetime a reasonable acreage of such lands as  
8 determined by the Secretary of Agriculture, subject to such  
9 regulations as the Secretary of Agriculture may issue to  
10 safeguard the administration of the national forest.

11       SEC. 31. The costs required by this Act may be paid  
12 from tribal funds which are hereby made available for such  
13 purpose subject to full reimbursement by the United States  
14 and the appropriation of funds for that purpose is hereby  
15 authorized.

80TH CONGRESS  
1st Session

**S. 1413**

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## **A BILL**

To provide for the termination of Federal supervision over the property of the Confederated Tribes of Colville Indians located in the State of Washington and the individual members thereof, and for other purposes.

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*By Mr. Jackson*

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MARCH 8, 1965

Read twice and referred to the Committee on Interior  
and Insular Affairs