Generally such per capita payments comprised only a portion of the funds due to the tribe, the remainder of such funds being invested or expended in other ways. Occasionally an Indian treaty provided for complete per capita distribution of tribal funds. Since 1871, and particularly during the years following the General Allotment Act, when per capita distribution of property was looked upon as an effective means of destroying tribal organization, numerous statutes provided for per capita payment of tribal funds.

In recent decades compensation to Indian tribes for land or other property has generally taken the form of statutory provisions requiring that certain sums be placed “to the credit of” a given tribe. Frequently specific provision is made covering the interest to be paid upon the funds and covering also the purpose for which and the manner in which the fund may be expended. Where a tribe has several different funds to its credit the statute, if clearly drafted, specifies the particular fund to which the sum in question is to be added.

Some statutes merely provide that funds shall be deposited in the United States Treasury and be subject to appropriations by Congress for a designated group or tribe of Indians. Since 1871, and particularly during the years following the General Allotment Act, when per capita distribution of property was looked upon as an effective means of destroying tribal organization, numerous statutes provided for per capita payment of tribal funds.

In recent decades compensation to Indian tribes for land or other property has generally taken the form of statutory provisions requiring that certain sums be placed “to the credit of” a given tribe. Frequently specific provision is made covering the interest to be paid upon the funds and covering also the purpose for which and the manner in which the fund may be expended. Where a tribe has several different funds to its credit the statute, if clearly drafted, specifies the particular fund to which the sum in question is to be added.

Some statutes merely provide that funds shall be deposited in the United States Treasury and be subject to appropriations by Congress for a designated group or tribe of Indians.

Since 1847 the President has been empowered, in his discretion, to pay over moneys due to Indian tribes to the members thereof, per capita, instead of to the officers or agents of the tribe. Questions of interpretation, however, continued to arise even after the 1847 statute.

Where the manner of payment is in issue it has been said that a requirement of execution of a receipt or release by the tribe indicates that payment to tribal officers rather than heads of families is intended.

Again, it has been said:

"Ordinarily a debt due to a nation, by a treaty, ought to be paid to the constituted authorities of the nation; but where the treaty and the law appropriating the money both direct the payment to all the individuals of the nation per capita, the treaty and the statute must prevail."

The statutes dealing with payments due from the United States to Indian tribes represented, until the end of the nineteenth century, the chief source of tribal income, supplemented only sporadically by special statutes or treaties authorizing the leasing or sale of tribal lands to other Indian tribes or to non-Indians. A further source of income of considerable importance during recent decades is constituted by judgment awards in suits against the United States.

In recent years, various jurisdictional acts have provided that no part of the judgment that may be awarded pursuant to the act shall be paid out in per capita payments to the Indians concerned.

This proviso represents a well-established tendency to devote recoveries from judgments in claim cases to the rebuilding of the entire tribal estate rather than to temporary payments which are easily dissipated.

An important source of income due to Indian tribes from non-governmental sources developed with the building of railroads across Indian reservations.

Most of the statutes which grant rights-of-way to railroads or other transportation or communication companies provide for payment of compensation to the Indian tribe. A majority of the statutes relating to railroads contain the phrase "the right to receive funds..."
said railway company shall pay to the Secretary of the Interior, for the benefit of the particular nations or tribes through whose lands said line 'may be located,' a specified sum,
which is frequently fixed at $50 per mile of road. In a few instances similar language referring to a definite tribe is used instead of the more general language above noted. A few statutes provide that the railway company shall pay the required sum 'to the Secretary of the Interior,' for the benefit of the particular nations or tribes or individuals through whose lands said line may be located. Other statutes provide for payment without specifying the manner of such payment. In 1899 the matter of railroad rights-of-way, hitherto dealt with in piecemeal legislation, was covered by a general statute which provided:

Sec. 5. That where a railroad is constructed under the provisions of this Act through the Indian Territory there shall be paid by the railway-company to the Secretary of the Interior, for the benefit of the particular nation or tribe through whose lands the road may be located, such an annual charge as may be prescribed by the Secretary of the Interior, not less than fifteen dollars for each mile of road; the same to be paid so long as said land shall be owned and occupied by such nation or tribe, which payment shall be in addition to the compensation otherwise required herein.

The various general statutes authorizing the leasing of Indian lands, and other forms of disposition of Indian tribal property which have been analyzed in earlier sections of this chapter, generally provide that the proceeds from such transactions shall be deposited to the credit of the tribe concerned. The following table shows the various general statutes directly relating to the specified forms of tribal income be deposited to the credit of the tribe.

<table>
<thead>
<tr>
<th>Date of act</th>
<th>Statute citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apr. 12, 1924</td>
<td>43 Stat. 93.</td>
</tr>
<tr>
<td>Apr. 17, 1926</td>
<td>44 Stat. 300.</td>
</tr>
<tr>
<td>June 10, 1926</td>
<td>41 Stat. 1072.</td>
</tr>
</tbody>
</table>

In addition to the foregoing specific provisions, there are other currently effective statutes relating to the leasing of Indian lands which do not specify the manner in which the receipts are to be handled.

The Act of March 3, 1883, as amended, provides:

All miscellaneous revenues derived from Indian reservations, agencies, and schools, except those of the Five Civilized Tribes, and not the result of the labor of any member of such tribe, which are not required by existing law to be otherwise disposed of, shall be paid into the Treasury of the United States under the caption "Indian moneys, proceeds of labor," and are hereby made available for expenditure, in the discretion of the Secretary of the Interior, for the benefit of the Indian tribes, agencies, and schools on whose behalf they are collected, subject to the following:

<table>
<thead>
<tr>
<th>Source of income</th>
<th>Date of act</th>
<th>Statute citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Right-of-way for...</td>
<td>Mar. 11, 1904</td>
<td>33 Stat. 65.</td>
</tr>
<tr>
<td>Acquisition of...</td>
<td>Mar. 3, 1900</td>
<td>35 Stat. 781.</td>
</tr>
<tr>
<td>Sale of...</td>
<td>Apr. 12, 1924</td>
<td>43 Stat. 93.</td>
</tr>
<tr>
<td>Sale of...</td>
<td>Apr. 17, 1926</td>
<td>44 Stat. 300.</td>
</tr>
<tr>
<td>Sale of...</td>
<td>Mar. 4, 1913</td>
<td>37 Stat. 1015. amended.</td>
</tr>
<tr>
<td>Sale of...</td>
<td>Feb. 27, 1917</td>
<td>39 Stat. 944.</td>
</tr>
<tr>
<td>Water power leases</td>
<td>June 10, 1926</td>
<td>41 Stat. 1072.</td>
</tr>
</tbody>
</table>

The Act of March 3, 1883, as amended, provides:

All miscellaneous revenues derived from Indian reservations, agencies, and schools, except those of the Five Civilized Tribes, and not the result of the labor of any member of such tribe, which are not required by existing law to be otherwise disposed of, shall be paid into the Treasury of the United States under the caption "Indian moneys, proceeds of labor," and are hereby made available for expenditure, in the discretion of the Secretary of the Interior, for the benefit of the Indian tribes, agencies, and schools on whose behalf they are collected, subject to the following:

<table>
<thead>
<tr>
<th>Date of act</th>
<th>Statute citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mar. 11, 1904</td>
<td>33 Stat. 65.</td>
</tr>
<tr>
<td>Apr. 12, 1924</td>
<td>43 Stat. 93.</td>
</tr>
<tr>
<td>Apr. 17, 1926</td>
<td>44 Stat. 300.</td>
</tr>
<tr>
<td>June 10, 1926</td>
<td>41 Stat. 1072.</td>
</tr>
</tbody>
</table>
ever, to the limitations as to tribal funds imposed by section 27 of the Act of May 18, 1916 (Thirty-ninth Statutes at Large, page 169).\textsuperscript{56}

That this act does not limit the power of an Indian tribe to receive payments based on the use of tribal land was the view taken by the Department of the Interior in holding that tribes organized under section 16 of the Act of June 18, 1934, but not incorporated under section 17, might deposit such receipts in their own treasury. This conclusion was concurred in by the Comptroller General. The position of the Interior Department and of the Comptroller General is set forth in an Opinion of the Comptroller General dated June 30, 1897,\textsuperscript{57} from which the following excerpts are taken:

\begin{quote}
"... the act of May 27, 1926 (44 Stat. 560), amending the act of March 3, 1883, 22 Stat. 590, governs the use of revenues received by officials or employees of the Interior Department, and has no application to such payments as may lawfully be made to tribal officers under the provisions of the act of June 18, 1934, and constitutions adopted thereunder and approved by the Secretary of the Interior. The legislative history of the act of 1883 and the act of 1926 shows that the statutes were designed to control and regularize departmental receipts and accounts. They were not intended to regulate or prohibit payments made directly to tribal officers."
\end{quote}

"The question of whether an organized tribe may enter into negotiations and agreements respecting the use of tribal land and requiring payment to a regularly bounded tribal officer, by virtue of such agreements, is primarily an administrative question to be determined by the Secretary of the Interior in consideration of such factors as the experience of the Indian tribe in handling funds, the amount of the funds involved, the extent of the activity undertaken by tribal officers or other members of the tribe in developing sources of tribal revenue, and similar factors. Under Article IX, section 3 of the Constitution of the Gila River Pima-Maricopa Indian Community, those community lands which are not assigned to particular individuals for their private benefit or to groups of individuals operating as districts may be used by the community or may be leased by the council to members of the community, rentals to accrue to the community treasury to be used for the support of the helpless or other public purposes. This provision supersedes prior administrative regulations requiring all leases to be approved by the superintendent of the agency and further requiring that all payments made on the leases should be deposited in the United States Treasury. Under the present constitutional provisions the receipts in question are not revenues or receipts of the United States, the agreements from which they arise are not agreements approved by the superintendent and consequently such receipts are not affected by the act of May 17, 1926, or regulations issued thereunder, with respect to the accounting and deposit of tribal trust funds."

\begin{quote}
"CASE NO. 3

"Article VIII, section 3 of the Constitution of the Cheyenne River Sioux Tribe, above referred to, provides ‘Tribal lands may be leased by the tribal council, with the approval of the Secretary of the Interior, for such periods of time as are permitted by law.’ Nothing is said in this section or in any other section of the constitution as to whether rentals paid under such leases shall be paid to the disbursing agent of the reservation for deposit in the United States Treasury or to the bonded treasurer of the tribe for deposit in the tribal treasury. Presumably this is left, like the other terms of the lease, to the discretion of the Tribal Council and the Secretary of the Interior."
\end{quote}

\begin{quote}
\textsuperscript{56} In its code form, the reference is to Secs. 123 and 142 of this title.\textsuperscript{57} In its code form, the reference is to Secs. 123 and 142 of this title.
\textsuperscript{58} Material in quotations is quoted by the Comptroller General from the Interior Department letter of submission.
\end{quote}

\begin{quote}
\textsuperscript{57} The additional powers granted in the new act do not express the control by the tribe of their own finances, and here it is, therefore, some doubt whether such authority was intended. However, having in view the broad purposes of the act, as shown by its legislative history, to extend to Indians the fundamental rights of political liberty and local self-government, and there having been shown the fact that some of the power so granted by the new act would require the use of tribal funds for their accomplishment—being necessary incidents of such powers—and the further fact that the act of June 25, 1906, 34 Stat. 569, provides that section 30 of the Permanent Appropriation Act, 48 Stat. 1228, shall not apply to funds held in trust for Individual Indians, associations of individual Indians, or for Indian corporations chartered under the act of June 18, 1934, this office would not be required to object to the procedures suggested in your memorandum for the handling of tribal funds of Indian tribes organized pursuant to the said act of June 18, 1934.

Whether the conclusion in which the Secretary of the Interior and the Comptroller General agreed, in the case of an organized tribe, applies equally to an unorganized tribe remains uncertain. Implicit in this problem is the question of whether legislation such as the 1888 act has any application to funds in the possession of an Indian tribe. To this question we shall return in the final section of this chapter.

B. MANNER OF MAKING PAYMENTS TO TRIBE

Although a good deal of the foregoing discussion has dealt invasively with the manner as well as the source of payments made to an Indian tribe, it remains to note the various general statutes which have regulated the manner of making such payments. Generally such statutes have been limited to details of payment not covered by the treaty or act under which the payment is due. But in certain cases grave questions have arisen as to the compatibility between the statutes creating the debt and the statutes determining the manner of its discharge.

For the most part, these statutes are designed to guard against fraud and unfairness in the distribution of funds and supplies. The Act of June 30, 1834,\textsuperscript{58} contained two general provisions covering the payment of Indian annuities:

Sec. 11. And be it further enacted, That the payment of all annuities or other sums stipulated by treaty to be made to any Indian tribe, shall be made to the chiefs of such tribe, or to such person as said tribe shall appoint; or if any tribe shall appropriate their annuities to the purposes of education, or to any other specific use, then to such person or persons as such tribe shall designate.

Sec. 12. And be it further enacted, That it shall be lawful for the President of the United States, at the request of any Indian tribe to which any annuity shall be payable in money, to cause the same to be paid in goods, purchased as provided in the next section of this act. (P. 737.)

As subsequently amended,\textsuperscript{59} these provisions are embodied in the United States Code in the following form:

§ 111. Payment of annuities and distribution of goods. The payment of all moneys and the distribution of all goods stipulated to be furnished to any Indians, or tribe of Indians, shall be made in one of the following ways, as the President or the Secretary of the Interior may direct:

First. To the chiefs of a tribe, or to the tribe.

Second. In cases where the interests of the tribe or the individuals intended to be benefited, or any treaty stipulation, requires the intervention of an agency, then to such person as the tribe shall appoint to receive such one or goods, or if several persons be appointed, then upon the joint order or receipt of such persons.

\textsuperscript{58}4 Stat. 735.
...the beneficiaries of obligations from the United States to perform useful labor in order to secure the sums or supplies owing them. At various times provisions were made that tribes at war with the United States should not receive annuities or appropriations. Thus, section 2 of the Appropriation Act of March 3, 1875, provided:

That none of the appropriations herein made, or of any appropriations made for the Indian service, shall be paid to any band of Indians or any portion of any band while at war with the United States or with the white citizens of any of the States or Territories. (P. 448.)

Section 1 of the same act, now embodied in the United States' Code as section 129 of title 25, provides:

The Secretary of the Interior is authorized to withhold, from any tribe of Indians who may hold any captives other than Indians, any moneys due them from the United States until said captives shall be surrendered to the lawful authorities of the United States.

A third type of statute governing federal payments and distributions is concerned with the issue of tribal payments versus individual payments. During the allotment period a persistent effort was made to individualize annuities and funds, for approximately the same reasons that created the desire to individualize lands.

The Appropriation Act of March 3, 1877, contained a direction to each agent having supplies to distribute—

* * * to make out rolls of the Indians entitled to supplies at the agency, with the names of the Indians and of the heads of families or lodges, with the number in each family or lodge, and to give out supplies to the heads of families, and not the heads of tribes or bands, and not to give out supplies for a greater length of time than one week in advance; Provided, however, That the Commissioner of Indian Affairs map, in his discretion, issue supplies for a greater period than one week to such Indians as are peaceably located upon their reservation and engaged in agriculture.

The purpose of this provision was apparently to break down the tribal control that chiefs might exercise through the distribution of food and clothing and to transfer the prestige attached to such offices to the Indian agents.

The Act of March 2, 1907, authorizes the Secretary of the Interior to apportion "tribal or trust funds on deposit in the Treasury of the United States" among the members of the tribe concerned.

General segregation and distribution of tribal funds to members appearing on "final rolls" made by the Secretary of the Interior was authorized by section 28 of the Act of May 25, 1918, and section 1 of the Act of June 30, 1919. The repeal of the distribution features of the latter statute by the Act of June 24, 1938, parallels the termination of the allotment policy.

...
Other miscellaneous statutes: relating to the handling of funds due from the United States to Indian tribes relate primarily to matters of accounting procedure and the enforcement of appropriation limitations.

**SECTION 4. TRIBAL RIGHT TO EXPEND FUNDS**

Since the United States and the Indian tribe have each an interest in tribal funds held in the Treasury of the United States, the normal method of disposing of such funds has been by common consent of the tribe and the Federal Government. So far as treaty funds are concerned, treaty provisions, many of which are still in force, embodied a common agreement concerning the disposition of tribal money. Following the treaty period, agreements with Indian tribes, ratified by act of Congress, served a similar purpose. In recent years various new formulae have made their appearance embodying, in one way or another, the agreement of the tribe and the United States concerning expenditure of tribal funds.

Judgment moneys awarded to the Blackfeet Indians by the Court of Claims have been made “available for disposition by the tribal council of said Indians, with the approval of the Secretary of the Interior, in accordance with the constitution and bylaws of the Blackfeet Tribe.” Other statutes provided for the expenditure of tribal funds for objects designated or approved by the tribal council concerned. Perhaps the earliest such provisions is found in section 3 of the Appropriation Act of February 17, 1879, providing for the diversion of various appropriations to alternative uses “within the discretion of the President, and with the consent of said tribes, expressed in the usual manner.” This provision was repeated in subsequent appropriation acts and made permanent by the Act of March 1, 1907.

There is an implied agreement between federal and tribal authorities in acts authorizing the Secretary of the Interior to appropriate money for the expenses of tribal councils, tribal delegates, and tribal attorneys.

There are, of course, a great number of statutes authorizing the expenditure of tribal funds without express reference to the wishes of the tribe.

**SECTION 4A. TRIBAL RIGHT TO EXPEND FUNDS**

By common consent, of the States, the normal method of expenditure of tribal funds held in the Treasury of the United States is subject to the discretion of the President, and with the consent of said tribal councils. This provision was repeated in subsequent appropriation acts and made permanent by the Act of March 1, 1907. It may be noted, however, that the omission of express reference to tribal consent in appropriation provisions referring to tribal funds does not necessarily imply the absence of such consent. In fact, many provisions for the appropriation of tribal funds are sought at the request of the tribe concerned, although no reference to this fact appears on the face of the statute.

The present state of the law with respect to the power of an Indian tribe to expend funds or dispose of other personal property held by the United States in trust for the tribe is, that any such expenditure must be authorized by act of Congress.

The situation is analogous to that of a private trust, where the trustee must consent to expenditures by the beneficiary out of the trust fund. In the case of the trust funds of an Indian tribe, the power to determine the propriety of expenditures is vested in Congress and only in a very few cases has Congress delegated its power of decision to administrative authorities.

The history of Indian appropriation legislation shows a continuous struggle between two principles: on the one hand, it is
TRIBAL PROPERTY

In view of the present state of the law, an Indian tribe seeking a particular disposition of "tribal funds" or "trust funds" in the Treasury of the United States, must request a specific congressional appropriation unless "Indian Moneys, Proceeds of Labor" are available or the purpose is one of the four purposes for which Congress has given the Secretary of the Interior permanent spending authority, or the purpose is one to which the current Interior Department appropriation act, vests temporary spending authority in that Department. Under any of these three exceptions, administrative authority rather than congressional appropriation must be obtained.

These limitations upon the power of an Indian tribe to dispose of funds or other personal property in which it has an equitable interest do not extend to funds or personal Property over which the tribe has full legal ownership, even though such funds or property are voluntarily deposited for safekeeping with a local superintendent and therefore technically under the Permanent Appropriation Repeal Act of June 26, 1934, within the Treasury of the United States. The Act of June 25, 1936, specifically provides:

That section 20 of the Permanent Appropriation Repeal Act, approved June 26, 1934 (48 Stat. 1233), shall not be applicable to funds held in trust for individual Indians, associations of individual Indians, or for Indian corporations chartered under the Act of June 18, 1934 (48 Stat. 604).

Since funds so deposited by an incorporated tribe are not subject to congressional appropriation, it must be held a fortiori that funds not so deposited but retained by the tribe are not subject to congressional appropriations. All charters issued to incorporated tribes recognize that funds held in the treasury of an incorporated tribe are subject to disposition, in accordance with the limitations of the charter, by the corporation, and are not in any way subject to congressional appropriation. This conclusion may be based upon the narrow ground that section 17 of the Act of June 18, 1934, expressly authorizes a chartered tribe to "dispose of property * * * real and personal," but it seems more satisfactory to place the conclusion upon the broader ground that the various statutes relating to appropriations of "tribal funds" and "trust funds" use these words in a technical sense, as terms of art, to refer to a well-understood category of funds which are held in the Treasury of the United States to the credit of the tribe pursuant to some law or treaty, and that, therefore, these limitations are utterly inapplicable to funds in the actual possession of the tribe itself.

This view is in accord with the historic fact that Congress has never presumed to interfere with the expenditure of funds held in tribal treasuries, even when the collection of such funds by tribal authorities is regulated by specific legislation requiring reports to Congress by a tribal treasurer.

The difference between the power of an Indian tribe to dispose of personal property and its power over real property may be summed up in a sentence: A tribe may not validly alienate really except with the consent of the Federal Government, given by Congress or by an official duly authorized by Congress to consent to particular forms of alienation; on the other hand, a tribe has complete power of disposition over tribal personal property, except in so far as such property has been removed from its control and placed in the possession of the Federal Government pursuant to some law or treaty.

Among the limitations voluntarily assumed by Indian tribes

In other fields of Government, the public purpose Corporation has been created to facilitate businesslike handling of appropriations, and this same objective was a major factor in the scheme of tribal incorporation established by the Act of June 15, 1934, 48 Stat. 984. 25 U. S. C. 461 et seq.

The Comptroller General has held that contracts with attorneys for payment of fees out of tribal funds should not be approved by the Secretary of the Interior in the absence of express statutory authorization. Comptroller's Decisions A. 24931, November 3, 1928; A. 27720, July 1, 1928; A. 29173, May 8, 1933; A. 34858, January 20, 1931; A. 45091, October 20, 1932; A. 61210, December 2, 1936; A. 44298, October 11, 1932. The Interior Department takes the position, in view of the Comptroller General's Opinion of June 30, 1937, discussed supra, that these decisions do not apply to funds in the treasury of an organized tribe. Memo. Sol. I. D., January 18, 1938.

The difference between the power of an Indian tribe to dispose of personal property and its power over real property may be summed up in a sentence: A tribe may not validly alienate really except with the consent of the Federal Government, given by Congress or by an official duly authorized by Congress to consent to particular forms of alienation; on the other hand, a tribe has complete power of disposition over tribal personal property, except in so far as such property has been removed from its control and placed in the possession of the Federal Government pursuant to some law or treaty.

Among the limitations voluntarily assumed by Indian tribes

48 Stat. 1224.
49 Stat. 1228.
See, for example, Act of February 28, 1901, 31 Stat. 810 (Seine leases rentals).
with respect to the disposition of tribal moneys and other personality, we may briefly note:

(1) Limitations contained in tribal constitutions.  

(2) Limitations contained in tribal charters.  

See, for example, the following provisions of the constitution and bylaws of the Hualapai tribe, approved December 17, 1938:

Art. VI, Section 1. The Hualapai Tribal Council shall have the following powers:

(e) To deposit all Tribal Council Funds to the credit of the Hualapai Tribe in an Individual Indian Moneys Account. Hualapai Tribe of the Trouton Canyon Agency, such funds to be expended only upon the recommendation of the Tribal Council in accordance with a budget having prior approval of the Secretary of the Interior.

BYLAWS OF THE HUALAPAI TRIBE OF THE HUALAPAI RESERVATION, ARIZONA

ARTICLE 1—DUTIES OF OFFICERS

Sec. 4. Treasurer.—The Treasurer shall accept, receive, receipt for, preserve, and safeguard all funds in the custody of the Tribal Council. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at such times as requested by the Tribal Council. He shall not pay out or disburse any funds in his possession or custody, except in accordance with a resolution duly passed by the Council. The books and records of the Treasurer shall be audited at least once each year by a competent auditor employed by the Council and at such other times as the Council or the Commissioner of Indian Affairs may direct. The Treasurer shall be required to give a bond satisfactory to the Tribal Council and to the Commissioner of Indian Affairs. Until the Treasurer is bonded, the Tribal Council may make such provision for the custody and disbursement of funds as shall guarantee their safety and proper disbursement and use.

See, for example, the following provisions from sec. 5 of the corporate charter of the Confederated Salish and Kootenai tribes of the Flathead reservation, ratified April 25, 1936:

5. The tribe, subject to any restrictions contained in the constitution and laws of the United States, or in the constitution and bylaws of the said tribe, shall have the following corporate powers, in addition to all powers already conferred or guaranteed by the tribal constitution and bylaws:

(b) To purchase, take by gift, bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, subject to the following limitations:

5. No distribution of corporate property to members shall be made except out of net income.

(d) To borrow money from the Indian credit fund in accordance with the terms of section 10 of the act of June 18, 1934 (48 Stat. 984), or from any other governmental agency, or from any member or association of members of the tribe and to use such funds directly for productive tribal enterprises, or to loan money thus borrowed to individual members or associations of members of the tribe: Provided, That the amount of indebtedness to which the tribe may subject itself shall not exceed $100,000, except with the express approval of the Secretary of the Interior.

(f) To make and perform contracts and agreements of every description, not inconsistent with law or with any provisions of this charter, with any person, association, or corporation, with any municipality, or any county, or the United States or the State of Montana, including agreements with the State of Montana for the rendition of public services and including contracts with the United States or the State of Montana or any agency of either for the development of water-power sites, within the reservation: Provided, That all contracts involving payment of money by the corporation in excess of $5,000 in any one fiscal year, or involving the development of water-power sites within the reservation, shall be subject to the approval of the Secretary of the Interior or his duly authorized representative.

(g) To pledge or assign chattels or future tribal income due or to become due to the tribe under any notes, leases, or other contracts, whether or not such notes, leases, or other contracts involve any provision of the law and in no case, shall the proceeds of any notes, leases, or other contracts be pledged or assigned, unless such notes, leases, or contracts are in existence at the time: Provided, That all agreements of pledge or assignment shall not extend more than 10 years from the date of execution and shall not cover more than one-half the net tribal income in any one year.: And provided further, That any such agreement shall be subject to the approval of the Secretary of the Interior or his duly authorized representative.

(h) To make and perform contracts with the United States or the State of Montana or any agency of either for the rendition of public services, including contracts with the United States or the State of Montana or any agency of either, and to make and perform contracts with any county or city or any part thereof, or any political subdivision or governmental agency of the United States, or the State of Montana or any county or city with the United States or the State of Montana or any agency of either, and to make and perform contracts with any person, association, corporation, or any other public body, and to make and perform contracts with any other public body, and to make and perform contracts with any person or association, corporation.  

See Chapter 12, sec. 6.

See Chapter 12, sec. 6.

See Chapter 12, sec. 6.

49 Stat. 115.


See Chapter 12, sec. 6.

(3) Limitations contained in tribal loan agreements.

(4) Limitations contained in tribal trust agreements.

The grant of funds to Indian tribes for particular uses, under the Emergency Appropriation Act of April 8, 1935, raised additional questions as to the powers of an Indian tribe in handling funds. In response to the question put by the Commissioner of Indian Affairs whether an Indian tribe might "use the proceeds of rentals of land improved through rehabilitation grants to finance additional construction projects or to meet general tribal expenses or to make per capita payments," the Solicitor of the Interior Department ruled:

4. When money has been granted to an Indian tribe to be used for a particular purpose, e.g., the development of springs on tribal land or the construction of houses, the Presidential letter above set forth imposes no duty on the tribe when once the money has been properly expended. The fact that such expenditures may increase tribal income from the issuance of leases or permits on tribal land, or tribal income from other enterprises, does not subject a part of that income, or all of it, to any lien on the part of the Federal Government. Such income may, therefore, be received and disbursed by the Indian tribe in any manner not prohibited by Federal law or by the constitution, bylaws, or charter of the tribe, unless the tribe has specifically agreed to use such rentals or income for a specific purpose. It is, of course, within the power of a tribe to agree, through its representative council or other officers, that certain income available to the tribe shall be used only for designated purposes not inconsistent with law.

Following this determination, the Indian Office entered into trust agreements with various Indian tribes under which the Indian tribe became trustee of the funds granted and the proceeds thereof for the benefit of needy Indians entitled to the benefits of the act in question.