IN THE SENATE OF THE UNITED STATES.

December 10, 1923.

Mr. Bursum introduced the following bill; which was read twice and referred to the Committee on Public Lands and Surveys.

A BILL

To quiet the title to lands within Pueblo Indian land grants, 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 in order to quiet title to various lots, parcels and tracts
4 of land in the State of New Mexico for which claim shall be
5 made by or on behalf of the Pueblo Indians of said State as
6 hereinafter provided, the United States of America, in its
7 sovereign capacity as guardian of said Pueblo Indians shall,
8 by its Attorney General, file in the district court of the United
9 States for the district of New Mexico, its bill or bills of
10 complaint with a prayer for discovery of the nature of any
11 claim or claims of any kind whatsoever adverse to the
12 claim of said Pueblo Indians, as hereinafter determined.
Sec. 2. That there shall be and hereby is established a board to be known as "Pueblo Lands Board" to consist of the Secretary of the Interior, the Attorney General, and a third member to be appointed by the President of the United States. The board shall be provided with suitable quarters in the city of Santa Fe, New Mexico, and shall employ such clerical assistance, interpreters and stenographers with such compensation as the Attorney General shall deem adequate, and it shall be provided with such necessary supplies and equipment as it may require on requisitions to the Department of Justice. The compensation and allowance for travel and expenses of the member appointed by the President shall be fixed by the Attorney General.

It shall be the duty of said board to investigate, determine, and report and set forth by metes and bounds, illustrated where necessary by field notes and plats, the lands within the exterior boundaries of any land granted or confirmed to the Pueblo Indians of New Mexico by any authority of the United States of America, or acquired by said Indians as a community by purchase or otherwise, title to which the said board shall find not to have been extinguished in accordance with the provisions of this Act, and the board shall not include in their report any claims of non-Indian claimants who, in the opinion of said board after investigation, hold and occupy lands of which they have had adverse
possession within the terms of the limitations or either of
them prescribed in section 4 of this Act: Provided, how-
ever, That if all the members of the board shall not agree
that the Indian title is not extinguished to any tract or
tracts of land, then such tract or tracts of land shall be
included in the lands which shall be claimed for said Indians.
The board shall report upon each pueblo as a sepa-
rate unit and shall complete its report upon one pueblo
before taking up another, and upon the completion of each
report one copy shall be filed with the United States dis-
trict court for the district of New Mexico, one with the At-
torney General of the United States, one with the Secre-
tary of the Interior, and one with the Board of Indian Com-
missioners.

That in the event there is submitted to the Pueblo
Land Board any claim or claims originating during the
twenty-year period provided for in subsection (a) of sec-
tion 4 of this Act under and by virtue of a deed or deeds,
or a contract for a deed or deeds, entered into by the au-
thorities of any pueblo with such claimant or claimants
in behalf of such pueblo then the board shall not report
such claim or claims for suit to quiet title, but shall investi-
igate all the circumstances surrounding the transaction, the
value of the improvements upon and extent of use of the land
claimed, and shall report the facts fully to the Secretary
of the Interior, who in turn shall report the same to Congress
with his recommendations in the premises: Provided, how-
ever, That if after one year from the date of the transmittal
to Congress of the recommendation by the Secretary of the
Interior no action has been taken pursuant thereto, then the
claimant or claimants shall be served with process in the
appropriate suit to quiet title and his or their rights shall
be litigated in the same manner as would any other claim
under the provisions of this Act: And provided further, That
if it shall appear that any of the claims above mentioned
in this paragraph originated prior to June 20, 1910, such
claims shall, if the governing authorities of the pueblo
interested in the premises shall file with the-said board their
written approval thereof, be recognized as valid and dis-
posed of in the manner provided for the disposition of the
claims included in the provisions of section 10 of this
Act.

Sec. 3. That upon the filing of each report by the
said board, the Attorney General shall cause to be filed in
the United States district court for the district of New Mexico,
as provided in section 1 of this Act, a suit to quiet title to
the lands described in said report as Indian lands, the
Indian title to which is not extinguished.

Sec. 4. That all persons other than Pueblo Indians
claiming title to, or ownership of any lands involved in any
such suit, or suits, may in addition to any other legal or equitable defenses which they may have, plead limitation of action, as follows, to wit:

(a) That in themselves, their ancestors, grantors, privies, or predecessors in interest or claim of interest, they have had open, notorious, actual, exclusive, continuous, adverse possession of the premises claimed for more than twenty years next preceding the passage of this Act, under color of title.

(b) That in themselves, their ancestors, grantors, privies, or predecessors in interest or claim of interest, they have had open, notorious, actual, exclusive, continuous, adverse possession of the premises claimed for more than thirty years next preceding the passage of this Act, with claim of ownership, but without color of title.

Sec. 5. The plea of such limitations, successfully maintained, shall entitle the claimants so pleading to a decree in favor of them, their heirs, executors, successors, and assigns for the premises so claimed by them, respectively, or so much thereof as may be thus established, which shall have the effect of a deed of quitclaim as against the United States and said Indians, and a decree in favor of claimants upon any other ground shall have a like effect.

The United States may plead with like effect in favor of the pueblo or any individual Indian thereof, as the case may be, the said limitations hereinbefore defined.
Sec. 6. That all lands, the title to which is determined in said suit, or suits, shall where necessary, be surveyed and mapped under the direction of the Secretary of the Interior, at the expense of the United States, but such survey shall be subject to the approval of the judge of the United States district court and if approved by said judge shall be filed in said court and become a part of the decree, or decrees, entered in said district court.

Sec. 7. That necessary costs in all original proceedings under this Act, to be determined by the court, shall be taxed against the United States, and any party aggrieved by any final judgment or decree shall have the right to a review thereof by appeal or writ of error or other process, as in other cases, but upon such appeal being taken each party shall pay his own costs.

Sec. 8. That in the sense in which used in this Act, the word "purchase" shall be taken to mean the acquisition of community lands by the Indians other than by grant or donation from a sovereign.

Sec. 9. That any person not impleaded in any such action, and claiming any interest in the premises involved, may be made a party defendant thereto, or may intervene in such action, setting up his claim in usual form.

Sec. 10. That as to all lands within the exterior boundaries of any lands granted or confirmed to the Pueblo Indians
of New Mexico, by any authority of the United States of America, or acquired by said Indians as a community by purchase or otherwise and which have not been claimed for said Indians by the findings and report of the board as herein provided, the Secretary of the Interior shall cause notice to be published in some newspaper or newspapers of general circulation issued, if any there be, in the county in which the said lands, or some part of them are located, otherwise in some newspaper or newspapers of general circulation published nearest to such lands, once a week for five successive weeks, setting forth as nearly as may be the names of claimants of land holdings within said exterior boundaries and not embraced within the lands claimed for said Indians as aforesaid, with a description of such several holdings as shown by a survey of Pueblo Indian lands heretofore made under the direction of the Secretary of the Interior, and commonly known as the Joy Survey, or as may be otherwise shown, and requiring that any person or persons claiming such described parcel or parcels of land adversely to the apparent claimant or claimants so named as aforesaid, or their heirs or assigns, shall, on or before the thirtieth day after the last publication of such notice file his or their adverse claim in the United States land office in the land district wherein such parcel or parcels of land are situate, in the nature of a contest, stating the nature
and basis of such adverse claim, and notice of such contest shall be served upon the claimant or claimants named in the said notice, in the same manner as in cases of contest of homestead entries; if no such contest is instituted as aforesaid, the Secretary of the Interior shall issue to the claimant or claimants named in the said notice a patent or other certificate of title for the parcel or parcels of land so described in the said notice; but if a contest be filed, it shall proceed and be heard and decided as contests of homestead entries are heard and decided, under the rules and regulations of the General Land Office pertinent thereto. Upon such contest either party may claim the benefit of the provisions of section 4 of this Act, to the same effect as if he were a party to a suit to quiet title brought under the provisions hereof, and the successful party shall receive a patent or certificate of title. Any patent or certificate of title issued to non-Indian claimants under the provisions of this Act shall have the effect only of a relinquishment of title by the United States of America and the said Indians and shall not affect the adverse rights of any other party or parties whatsoever. If the names of the claimants of such parcel or parcels of land are unknown, and after such notice more than one person or group of persons united in interest makes claim in such land office adversely to each other, the register and receiver shall require them to set forth in writing the nature of their re-
spective claims, and thereupon the said claims shall be heard and decided as if they were made in a contest in the first instance. All patents or certificates of title which may be issued in accordance with this Act shall be in such form as to convey the title of the United States and said Indians to the grantee, naming him, and to his heirs and legal representatives.

Sec. 11. That if any non-Indian party to any such suit shall assert against the Indian title a claim based upon a Spanish or Mexican grant, and if the court should finally find that such claim by the non-Indian is superior to that of the Indian claim, no final decree or judgment of ouster of the said Indians shall be entered or writ of possession or assistance shall be allowed against said Indians, or any of them; or against the United States of America acting in their behalf, unless it shall be found that such non-Indian claimant shall also be entitled to said land under the provisions of section 4 as herein provided. In such case the court shall ascertain the area and value of the land thus held by any non-Indian claimant under such superior title, excluding therefrom the area and value of lots or parcels of land the title to which has been found to be in other persons by adverse possession under the provisions of this Act: Provided, however, That any findings by the court under the provisions of this section may be reviewed on appeal or writ of error at the instance of any
party aggrieved thereby, in the same manner, to the same extent, and with like effect as if such findings were a final judgment or decree. When such finding adverse to the Indian claim has become final, the Secretary of the Interior shall report to Congress the facts, including the area and value of the land so adjudged against the Indian claim, with his recommendations in the premises.

Sec. 12. That when any claimant, other than the United States for said Indians, fails to sustain his claim to any parcel of land within any Pueblo Indian grant, purchase, or donation under the provisions of this Act, but has held and occupied any such parcel in good faith, claiming the same as his own, and the same has been improved, the value of the improvements upon the said parcel of land shall be found by the court, and reported by the Secretary of the Interior to Congress with his request for appropriations to pay such claimants for such improvements at the valuation so found by the court.

Sec. 13. That if any land adjudged against any claimant be situate among lands adjudicated or otherwise determined in favor of non-Indian claimants and apart from the main body of the Indian land, and the Secretary of the Interior deems it to be for the best interest of the Indians that such parcels so adjudged against the non-Indian claimant be sold, he may, with the consent of the governing authorities
of the pueblo, order the sale thereof, under such regulations as he may make, to the highest bidder for cash, and if the buyer thereof be other than the losing claimant, the purchase price shall be used in paying to such losing claimant the adjudicated value of the improvements aforesaid, if found under the provisions of section 12 hereof, and the balance thereof, if any, shall be paid over to the proper officer, or officers, of the Indian community, but if the buyer be the losing claimant, and the value of his improvements has been adjudicated as aforesaid, such buyer shall be entitled to have credit upon his bid for the value of such improvements so adjudicated.

Sec. 14. That the pleading, practice, procedure, and rules of evidence shall be the same in all causes arising under this Act as in other civil causes in the Federal courts, except as otherwise herein provided.
A BILL

To quiet the title to lands within Pueblo Indian
Public Lands and Surveys.

Read Twice and Referred to the Committee on
December 10, 1826.

By Mr. Husen.