

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS

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CONSTITUTION AND BYLAWS OF THE  
BAD RIVER BAND OF THE LAKE  
SUPERIOR TRIBE OF CHIPPEWA INDIANS  
OF THE STATE OF WISCONSIN

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APPROVED JUNE 20, 1936



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# CONSTITUTION AND BYLAWS OF THE BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS OF THE STATE OF WISCONSIN

## PREAMBLE

We, the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the State of Wisconsin in order to organize as a tribe for the common welfare of ourselves and our posterity and to insure domestic tranquility; to conserve and develop our natural resources; to form business and other organizations; to enjoy certain rights of home rule; to provide for our people education in vocational and trade schools and institutions of higher learning; do ordain and establish this Constitution according to the Act of Congress, dated June 18, 1934 (48 Stat. L. 984).

## ARTICLE I—TERRITORY

SECTION 1. This Constitution shall apply to the territory embraced in the original boundary lines of the Bad River Reservation defined in the Treaty of September 30, 1854, and to land acquired or reserved within or without said boundary lines by or on behalf of the Bad River Band, except as otherwise provided by law.

## ARTICLE II—MEMBERSHIP

SECTION 1. For the purpose of membership in this Band under this Constitution, the following shall be included:

(a) All persons whose names appear on any official allotment rolls of the Bad River Reservation.

(b) All children born to any member of the Bad River Band who is a resident of the reservation at the time of the birth of said children.

SEC. 2. The Tribal Council shall have power to promulgate ordinances, subject to review by the Secretary of the Interior, governing future membership and the acquisition or loss of membership.

SEC. 3. The administration of the foregoing powers, and of all by-laws and ordinances affecting tribal membership, shall be vested in a Membership Committee, to be appointed by the Tribal Council independent of its own members. The acts of such committee shall be subject to review by the Tribal Council and the action of such Council shall be final, except as otherwise hereinafter provided.

SEC. 4. Adoption of a nonmember of the Band shall be made by written application to the Membership Committee who shall make recommendations to the Tribal Council. The decision of the Tribal Council shall be subject to popular vote at the next annual election.

SEC. 5. Property rights shall not be acquired or lost through membership in this organization, except as provided herein.

## ARTICLE III—GOVERNING BODY

SECTION 1. The governing body under this Constitution and By-laws shall be known as the Tribal Council, composed of seven members to be elected by the people.

SEC. 2. The first election of councilmen under this Constitution and Bylaws shall be called and conducted by a provisional election committee appointed by the General Tribal Council under such rules and regulations as that Council may prescribe. Councilmen shall be elected for a term of 2 years.

SEC. 3. The provisional election committee provided for in section two of this article shall issue an election certificate to the councilmen duly elected. Said councilmen, upon receiving such certificates of election, shall meet and organize for business and shall elect from their membership by secret ballot, a chairman, a vice chairman, a secretary, and a treasurer who shall hold office for a term of 2 years or until their successors are elected and qualified.

SEC. 4. The Tribal Council shall establish by resolution the date, place and manner of control of biennial elections.

SEC. 5. The Tribal Council shall have authority to appoint subordinate officers, boards, and committees, and to define their duties.

## ARTICLE IV—ELECTIONS

SECTION 1. All members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin, 21 years of age and over, who have maintained continuous residence within the reservation for a period of 6 months immediately prior to the date of election, shall be qualified voters.

SEC. 2. Any person elected to office shall be not less than 25 years of age, a member of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin, and a resident of the Bad River Reservation for not less than 1 year preceding the date of election.

## ARTICLE V—REMOVAL

SECTION 1. Upon receipt of a petition signed by one-third of the eligible voters calling for the recall of any member of the Council, it shall be the duty of the Council to call an election on such recall petition. No member may be recalled in any such election unless at least 30 percent of the legal voters shall vote at such election.

SEC. 2. If a representative or official shall die, permanently leave the reservation, or shall be found guilty of a felony or misdemeanor involving dishonesty in any Indian, State, or Federal Court, the Tribal Council shall declare the position vacant and shall appoint a new member to serve until the next biennial election when a successor shall be elected.

SEC. 3. The Tribal Council may by an affirmative vote of four members expel any member for neglect of duty or gross misconduct provided that the accused member shall be given full and fair opportunity to reply to any and all charges at a designated Council meeting. It is further stipulated that any such member shall be given a written statement of the charges against him at least 5 days before the meeting at which he is to appear.

## ARTICLE VI—POWERS

SECTION 1. *Enumerated powers.*—The Tribal Council shall exercise the following powers, subject to any limitations imposed by the Constitution or statutes of the United States, and subject further to all express restrictions upon such powers contained in this Constitution and the attached Bylaws:

(a) To negotiate with the Federal, State, and local governments on behalf of the Band, and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

(b) To employ counsel for the protection and advancement of the rights of the Band and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.

(c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets, which may be authorized or executed by the Secretary of the Interior, the Commissioner of Indian Affairs, or any other official or agency of government, provided that no tribal lands shall ever be sold or encumbered, or leased for a period exceeding 10 years, except for governmental purposes, except that leases for mining purposes may be made for such longer periods as may be authorized by law.

(d) To advise with the Secretary of the Interior with regard to all appropriation estimates or federal projects for the benefit of the Band prior to the submission of such estimates to the Bureau of the Budget and to Congress.

(e) To make assignments of tribal land to members of the Band in conformity with Article VIII of this Constitution.

(f) To manage all economic affairs and enterprises of the Band in accordance with the terms of the charter which may be issued to the Band by the Secretary of the Interior.

(g) To appropriate for public purposes of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin available Tribal Council funds, and, subject to review by the Secretary of the Interior, any other available tribal funds.

(h) To levy taxes upon members of the Band and to require the performance of labor in lieu thereof, and to levy taxes or license fees, subject to review by the Secretary of the Interior, upon nonmembers doing business within the reservation: *Provided, however,* That any such assessment upon members of the Band shall have the approval of a majority of the voters of the Band at a special election at which at least 30 percent of the eligible voters of the Band shall vote.

(i) To purchase lands of members of the Band for public purposes, under condemnation proceedings in courts of competent jurisdiction.

(j) To safeguard and promote the peace, safety, morals, and general welfare of the Band by regulating conduct of trade and the use and disposition of property upon the reservation: *Provided,* That any ordinance directly affecting nonmembers of the Band shall be subject to review by the Secretary of the Interior.

(*k*) To regulate the inheritance of property, real and personal, other than allotted lands, within the territory of the Bad River Reservation, subject to review by the Secretary of the Interior.

(*l*) To regulate the manner of making nominations and holding elections for tribal officers.

(*m*) To adopt resolutions regulating the procedure of the Tribal Council itself and of other tribal agencies and tribal officials.

(*n*) To encourage and foster the arts, crafts, traditions, culture, wildlife, and natural resources of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin.

(*o*) To charter subordinate organizations for economic purposes, and to regulate the activities of cooperative associations of members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians by ordinance, provided that any such ordinance shall be subject to review by the Secretary of the Interior.

(*p*) To select delegates to sit in a National Council of the entire Chippewa Nation.

(*q*) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Bad River Band, and of nonmember Indians residing on the reservation, providing for the maintenance of law and order, and providing for the administration of justice by establishing an Indian Court and defining its duties and powers.

(*r*) To consolidate inherited land holdings by purchase, exchange, transfer, gift, or voluntary relinquishment, including the power to reassign same in the public interest.

(*s*) To exclude from the restricted lands of the reservation, persons not legally entitled to reside thereon, under ordinances which shall be subject to review by the Secretary of the Interior.

(*t*) To regulate hunting and fishing on tribal and restricted lands.

(*u*) To delegate to subordinate boards, or tribal officials, or to cooperative associations, that are open to all members of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. Any resolution or ordinance which, by the terms of this Constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation, who shall, within 10 days thereafter, approve or disapprove the same. If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same bearing his endorsement, to the Secretary of the Interior, who may, within 90 days from the date of its enactment, rescind the said ordinance or resolution for any cause, by notifying the Tribal Council of such decision.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within 10 days of its enactment, he shall advise the Tribal Council of his reasons therefor. If these reasons appear to the Tribal Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

SEC. 3. *Future powers.*—The Tribal Council may exercise such further powers as may in the future be delegated to the Band by the

Secretary of the Interior, or by any duly authorized official or agency of the State or Federal Government.

SEC. 4. *Reserved powers.*—Any rights and powers heretofore vested in the Bad River Band, but not expressly referred to in this Constitution, shall not be abridged by this Article, but may be exercised by the people of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin through the adoption of appropriate Bylaws and Constitutional Amendments.

#### ARTICLE VII—REFERENDUM

SECTION 1. The exercise of any enumerated powers lodged in the Tribal Council shall be subject to a referendum vote of the people upon a written petition signed by not less than 25 percent of the total number of voters in the last general election, provided that not less than 30 percent of the eligible voters shall vote in any such referendum, a majority of those voting to decide the issue.

#### ARTICLE VIII—LAND

SECTION 1. Allotted land, including heirship lands, within the Bad River Reservation shall continue to be held as heretofore by their present owners. It is recognized that under existing law such lands may be condemned for public purposes, such as roads, public buildings, or other public improvements, upon payment of adequate compensation. It is further recognized that under existing law such lands may be inherited by the heirs of the present owners, whether or not they are members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians. Likewise, it is recognized that under existing law the Secretary of the Interior may, in his discretion, remove restrictions upon such land, upon application by the Indian owner, whereupon the land will become subject to State tax and may then be mortgaged or sold. The right of the individual Indian to hold or to dispose of his land, as under existing law, shall not be abrogated by anything contained in this Constitution, but the owner of restricted land may, with the approval of the Secretary of the Interior, voluntarily convey his land to the Bad River Band of the Lake Superior Tribe of Chippewa Indians either in exchange for money payment or in exchange for an assignment covering the same land or other land, as hereinafter provided.

SEC. 2. Tribal lands of the Bad River Band of the Lake Superior Tribe of Chippewa Indians and all lands which may hereafter be acquired by the Bad River Band or by the United States in trust for the Bad River Band shall be held as tribal lands, and no part of such lands shall be mortgaged or sold.

SEC. 3. Tribal lands shall not be allotted to individual Indians, but such tribal lands as are not required for school, agency, or other administrative use may be assigned by the Tribal Council to members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians or may be leased or otherwise used by the Band as hereinafter provided.

SEC. 4. Tribal lands may be leased by the Tribal Council with the approval of the Secretary of the Interior in accordance with law. Preference shall be given, first, to cooperative associations of mem-

bers of the Band, and, secondly, to individual Indians who are members of the Band. No lease of tribal lands to a nonmember shall be made by the Tribal Council unless it shall appear that no cooperative association of members or individual member of the Band is able and willing to use the land and to pay a reasonable fee for such use.

SEC. 5. In any assignment of tribal lands which are now owned by the Band, or which may hereafter be acquired for the Band by the United States or purchased by the Band out of tribal funds, or which may be designated for the use of the Band, preference shall be given, first to heads of families which are entirely landless, and second, to heads of families which have no allotted lands or interests in allotted lands, but shall have already received assignments consisting of less than an economic unit of agricultural land or other land or interests in land of equal value, such economic unit to be determined by the Tribal Council by ordinances. Such assignments shall be known as "standard assignments."

No member of the Band who may hereafter have the restrictions upon his land removed, and whose land may thereafter be alienated, except to the Band, shall be entitled to receive an assignment of land as a landless Indian.

The Tribal Council may, if it sees fit, charge a fee on approval of a standard assignment.

SEC. 6. If any person holding a standard assignment of land shall, for a period of 1 year, fail to use the lands so assigned, or shall use the land for any unlawful purpose, his assignment may be canceled by the Tribal Council after due notice and opportunity to be heard. Such land may then be available for reassignment.

Upon the death of any Indian holding a standard assignment, his heirs or other individuals designated by him in writing shall have preference in the reassignment of the land, provided such persons are eligible to receive a standard assignment.

SEC. 7. Any member of the Bad River Band who owns an allotment of land or any share in heirship land or any deeded land, may with the approval of the Secretary of the Interior, voluntarily transfer his interest in such land, to the Band and receive therefor an assignment in the same land or other land of equal value or he may receive a proportionate share in a unit of agricultural or other lands.

Assignments made under this section shall be known as "exchange assignments."

SEC. 8. Exchange assignments may be used by the assignee or leased by him to cooperative associations of members of the Band, to individual members of the Band, or if no individual member or cooperative association of members is able and willing to rent the land at a reasonable fee, such assignments may be leased to non-Indians, in the same manner as allotted lands.

SEC. 9. Upon the death of a holder of an exchange assignment such lands shall be reassigned by the Tribal Council to his heirs or devisees, subject to the following conditions:

(a) Such lands may not be reassigned to any heir or devisee who is not a member of the Bad River Band, except that a life assignment may be made to the surviving spouse or child of the holder of such assignment.

(b) Such lands may not be reassigned to any heir or devisee who already owns or holds more than an economic unit of land.

(c) Such lands may not be subdivided among heirs or devisees into units too small for convenient management, and no assignment shall be subdivided into units smaller than  $2\frac{1}{2}$  acres, except that land used for buildings or other improvements may be divided to suit the convenience of the parties. Where it is impossible to divide the land properly among the eligible heirs or devisees, the Tribal Council may issue to the eligible heirs or devisees interests in tribal lands or property of the same value as the assignment of the decedent.

(d) If there are no eligible heirs or devisees of the decedent, the land shall be eligible for assignment the same as other tribal lands.

SEC. 10. Improvements of any character made upon assigned land may be willed to and inherited by members of the Bad River Band. When improvements are not possible of fair division, the Tribal Council shall dispose of them under such regulations as it may provide, for the benefit of such heirs. No permanent improvements may be removed from any tribal or assigned land without the consent of the Tribal Council.

SEC. 11. No member of the Bad River Band may use or occupy tribal lands except under an assignment or lease.

SEC. 12. Tribal land which is not assigned, including tribal timber reserves, shall be managed by the Tribal Council for the benefit of the members of the entire Band, and any cash income derived from such land shall accrue to the benefit of the Band as a whole. All action of the Tribal Council with respect to such lands shall be in conformity with departmental regulations for protection of Indian range and timber resources authorized by section 6 of the Act of June 18, 1934.

SEC. 13. Tribal funds may be used, with the consent of the Secretary of the Interior, to acquire land for the Bad River Band.

SEC. 14. Applications for assignment of land shall be made in writing. Such applications shall be submitted to the Tribal Council at regular or special sessions. The application shall be placed in the hands of a proper committee who shall call the matter up for action at the next regular meeting of the Tribal Council. Any member of the Band may object in writing to a proposed assignment. In the event of objection, the Chairman of the Tribal Council shall set a date for hearing, advising both the applicant and the objector. The action of the Council shall be final.

The Secretary of the Council shall furnish the Superintendent or other officer in charge of the agency a complete record of all action taken by the Tribal Council on applications for assignment of land, and a complete record of assignments shall be kept in the agency office and shall be open for inspection by members of the Band.

The Tribal Council shall draw up one or more forms for standard and exchange assignments, which shall be subject to the approval of the Secretary of the Interior.

## ARTICLE IX—AMENDMENTS

This Constitution and Bylaws may be amended by a majority vote of the qualified voters of the Bad River Band of the Lake Superior Tribe of Chippewa Indians voting at an election called for that purpose by the Secretary of the Interior: *Provided*, That at least thirty (30) percent of those entitled to vote shall vote in such elec-

tion; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment, upon receipt of a written resolution signed by at least five members of the Tribal Council.

## BYLAWS OF THE BAD RIVER BAND OF THE LAKE SUPERIOR TRIBE OF CHIPPEWA INDIANS IN THE STATE OF WISCONSIN

### ARTICLE I—DUTIES OF OFFICERS

SECTION 1. The Chairman of the Tribal Council shall preside at all meetings of the Council. He shall also be the presiding officer at any general council meeting which may be duly called in accordance with these Bylaws. He shall at all times have general supervision of the affairs of the Tribal Council and such matters as naturally pertain to the general welfare of the community. It shall also be the duty of the Chairman to countersign all checks against funds of the organization by the Treasurer. He shall vote only in case of a tie. The Chairman shall be ex officio member of all subordinate boards and committees.

SEC. 2. In the absence of the Chairman, the Vice Chairman shall preside at all meetings of the Tribal Council and shall act in his stead in all matters pertaining to the office of Chairman.

SEC. 3. The Secretary shall keep an accurate record of all proceedings of the Tribal Council and furnish copies thereof to the Superintendent and the Commissioner of Indian Affairs. He shall attend to the keeping of the official records of the Tribal Council and shall be responsible for the prompt and efficient handling of all correspondence pertaining to the business of the Tribal Council and the Band. All official records of the Tribal Secretary shall be open to inspection by the members of the Band at all times. The Secretary shall be ex officio member of all subordinate boards and committees.

SEC. 4. The Treasurer shall be the custodian of all funds in possession of the Band from any source. He shall be under bond to a surety company of recognized standing in an amount to be determined by the Tribal Council, such surety company and bond to be approved by the Commissioner of Indian Affairs. He shall keep an accurate record of all such funds and shall disburse the same in accordance with the vote of the Tribal Council and in accordance with this Constitution and Bylaws. The books of the Treasurer containing the financial status of the Band shall be open to audit and examination by the duly authorized officers of the Secretary of the Interior at all times.

The records of the Treasurer shall be open to inspection by members of the Tribal Council and its officers.

SEC. 5. The subordinate officers, boards, and committees of the Tribal Council shall perform such duties as the Tribal Council shall provide, by resolution, from time to time.

### ARTICLE II—OATH

SECTION 1. All officers when elected shall be duly installed and subscribe to an oath of office to support the Constitution of the

United States and this Constitution. Such officers may be sworn in by any officer qualified to administer an oath.

### ARTICLE III—SALARIES

SECTION 1. Tribal officials shall be paid such salaries from available Tribal funds as the Tribal Council shall decide. All proposals for salaried positions by the Tribal Council shall be referred to the Secretary of the Interior for final decision.

SEC. 2. The members of the Tribal Council, boards, and committees shall be paid for expenses incurred in the interest of the community when previously authorized by the Tribal Council.

### ARTICLE IV—MEETINGS

SECTION 1. Regular meetings of the Tribal Council shall be held, on the first Friday of January, April, July, and October, and at such other times as the Tribal Council may by resolution provide. Called meetings shall be held at the discretion of the Chairman or upon request of three members of the Tribal Council. Three days' written notice shall be given to all Council members.

SEC. 2. Five members shall constitute a quorum.

SEC. 3. The Tribal Council shall prescribe such rules of order for its meetings as it desires.

SEC. 4. The meetings of the Tribal Council, except executive sessions, shall be open to the Tribe as auditors.

### ARTICLE V—ADOPTION OF CONSTITUTION AND BYLAWS

This Constitution and Bylaws, when ratified by a majority of the qualified voters of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of Wisconsin, voting at a special election called for the purpose by the Secretary of the Interior, provided that at least 30 percent of those entitled to vote shall vote in such election, shall be submitted to the Secretary of the Interior, and, if approved, shall be effective from the date of approval.

### CERTIFICATION OF ADOPTION

Pursuant to an order, approved April 13, 1936, by the Secretary of the Interior, the attached Constitution and Bylaws was submitted for ratification to the members of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation and was on May 23, 1936, duly adopted by a vote of 169 for and 113 against in an election in which over 30 percent of those entitled to vote cast their ballots in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

W. P. BIG BOY,  
*Chairman of Election Board.*  
WILLIAM DENOMIE,  
*Chairman of Tribal Council.*  
FRED CHISHOLM,  
*Secretary.*

J. C. CAVILL, *Superintendent.*

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and Bylaws of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution or Bylaws are hereby declared inapplicable to the Bad River Band of the Lake Superior Tribe of Chippewa Indians.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and Bylaws.

Approval recommended June 12, 1936.

JOHN COLLIER,

*Commissioner of Indian Affairs.*

HAROLD L. ICKES,  
*Secretary of the Interior.*

[SEAL]

WASHINGTON, D. C. *June 20, 1936.*

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## AMENDMENT TO CONSTITUTION OF THE BAD RIVER BAND OF CHIPPEWA INDIANS, WISCONSIN

### AMENDMENT II.

Article VIII, Section 15, as amended, shall be further amended to read as follows:

"SEC. 15. The trapping, shooting, and killing of muskrats in any manner within the boundaries of the Bad River Reservation shall not be permitted until after November 1, 1944. Thereafter such animals may be taken only by the Business Muskrat Fur Farm, which shall be operated as a permanent tribal enterprise for the sole benefit of the members of the Bad River Band of Chippewa Indians."

Pursuant to an order, approved on October 13, 1944, by the Assistant Secretary of the Interior, the attached amendment to the tribal constitution was submitted for ratification to the qualified voters of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the State of Wisconsin, and was on October 23, 1944, duly adopted by a vote of 76 for and 5 against, in an election in which over 30 percent of those entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

CARL MADAY  
*Chairman, Tribal Council*  
ALFRED LAPOINTE,  
*Acting Secretary, Tribal Council*

J. C. CAVILL,  
*Superintendent, Great Lakes Agency.*

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment II, amending the Constitution and By-laws of the Bad River Band of Chippewa Indians, Wisconsin.

Approval recommended: October 26, 1944

WILLIAM ZIMMERMAN, Jr.,  
*Assistant Commissioner.*

[SEAL]

OSCAR L. CHAPMAN,  
*Assistant Secretary*

WASHINGTON, D. C., *October 31, 1944.*