

Information

Enrolment of Non-American Citizens, and Porto Ricans, Etc., in Indian Schools.

Mem of Nov 29, 1916.

See

122662-16

42727-14 - Comp. Dec.

11780-09 - (820)

59210-09 820 Carlisle

86966-09 " "

78220-09 " "

57908-09 " "

39046-13 " "

40155-14 (173.1)

33122-10 820 Carlisle

334-15 " "

77184-12 " "

122008-16 — " "

NOV 29 1916

Memorandum
re
Carlisle Scholarships for Indian Students
From Mexico.

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11 23 62

Referring to the letter dated November 21, 1916, from Mr. Stanley R. Yarnall, of Germantown, Pennsylvania, and the request of Private Secretary Meyer, dated November 25, for a "memorandum as to whether we have authority to issue scholarships to Carlisle to Indian students from Mexico", I have the honor to submit the following:

The title to the Indian Appropriation Acts for recent years reads as follows: "An Act Making appropriations for the current and contingent expenses of the Bureau of Indian Affairs, for fulfilling treaty stipulations with various Indian tribes, and for other purposes."

There is a specific appropriation for the maintenance of the Carlisle Indian School carried in the Indian Appropriation Acts from year to year. The appropriation for the Carlisle Indian School in the current Indian Appropriation Act, approved May 18, 1916, (39 Stat. L., 150), reads as follows:

"For support and education of Indian pupils at the Indian school at Carlisle, Pennsylvania, including pay of superintendent, \$132,000; for general repairs and improvements, \$20,000; in all, \$152,000."

We are at this time educating a limited number of Indian children from Alaska in our Indian schools at Salem, Oregon, and the Cushman School at Tacoma, Washington. There is no specific reference to the Alaskan Indian children in the item in the Indian Appropriation Act for the support of the Cushman School, but the appropriation item for the Salem School contains in part the following language:

"For support and education of six hundred Indian pupils, including native Indian pupils brought from Alaska, at the Indian school, Salem, Oregon, including pay of superintendent, \$102,000; * * * ."

There is a limiting clause in the current Indian Appropriation Act in connection with the general appropriation for the support of Indian day and industrial schools, which has been carried in the Indian Appropriation Act for recent years, and reads as follows:

* * * Provided further, That no part of this appropriation, or any other appropriation provided for herein, except appropriations made pursuant to treaties, shall be used to educate children of

less than one-fourth Indian blood whose parents are citizens of the United States and of the State wherein they live and where there are adequate free school facilities provided and the facilities of the Indian schools are needed for pupils of more than one-fourth Indian blood;
* * *"

I find, in the Indian Appropriation Act of March 3, 1909 (35 Stat. L., 783), the following:

* * * Provided further, That hereafter white children may, under rules prescribed by the Commissioner of Indian Affairs, be admitted to Indian boarding schools on the payment of tuition fees at a rate to be fixed in said rules: Provided further, That all tuition fees paid for white children so enrolled shall be deposited in the United States Treasury to reimburse the fund out of which the school is supported."

Soon after this Government assumed guardianship over Porto Rico, a number of Porto Rican children were permitted to be enrolled at the Carlisle Indian School on condition that they pay a tuition fee of \$167 per annum.

I find, in Indian Office file 33122-1910, a letter, dated April 5, 1910, addressed to the Secretary of the Interior by Indian Commissioner Valentine, recommending the enrollment of a Philippino boy, twenty years of age, at the Carlisle Indian School, on condition that

the expenses connected with his attendance at said school should be paid. This recommendation was approved by the then Secretary of the Interior, Hon. R. A. Ballinger, under date of April 21, 1910.

The Comptroller of the Treasury, Hon. George E. Downey, under date of April 16, 1914, rendered an important decision regarding the money derived from tuition fees at Indian schools, and which has an indirect bearing upon the question at issue. I deem this decision of sufficient importance to quote it in full. The decision reads as follows:

"I have your request of April 11, 1914, for decision as to whether money derived from tuition fees at Indian schools, from students not of white blood, but either of part Indian blood or wholly or in part of the blood of a foreign race, may be used as 'Miscellaneous Receipts, Class 2,' pursuant to section 284, amendment No. 30 to regulations of the Indian Office, effective April 1, 1904, which defines such moneys as -

'Funds to be covered back into the appropriations from which they were taken and made available for re-expenditure for the purposes for which originally appropriated.'

"By the acts of March 1, 1907 (34 Stat., 1018), and March 3, 1909, (35 Stat., 783), specific authority was granted for the admission of white children to Indian day and boarding schools at rates to be fixed by the Commissioner of Indian Affairs, with

the provision that the tuition fees paid for white children so enrolled shall be deposited in the United States Treasury to reimburse the fund out of which the respective schools are supported and maintained. Under this provision the funds so derived from white children for tuition fees have been used as 'Miscellaneous Receipts, Class 3.'

"It is understood from your submission that the funds derived from tuition fees from children other than of white blood have heretofore been used in the same way, but that the question as to the propriety of this procedure has now been informally raised by the Auditor for the Interior Department in view of the fact that the foregoing legislation mentions only 'white children.'

"It would seem that in providing for the various Indian schools Congress contemplated making provision for the support and education of children, in whole or in part, of Indian blood. This theory seems to be carried out in the various appropriations for the support and maintenance of these schools. No express authority of law for the admission of white children to these schools seems to have existed prior to the foregoing enactments, but since such enactments and the admission of white children to these schools, the tuition fees paid by them have been added to the appropriations for the support and maintenance of the respective schools and thus were made available for expenditure as contemplated by said enactments. And while this legislation refers only to 'white' children I am inclined to think the word need not be limited to its technical meaning but rather is used in contradistinction to 'Indian', and, when admitted to Indian schools, I know of no valid reason why the tuition fees received or collected from children not technically of white blood should not be disposed of in the same way. It would seem that children, not of white blood, who are not entitled to free support and education at the Indian schools at which they are enrolled, are in very much the same status as white children enrolled at such schools.

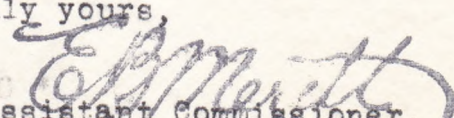
"Your question is therefore answered in the affirmative."

While the general authority of the Secretary of the Interior and the Commissioner of Indian Affairs over Indian matters is very broad, as shown by Sections 462 to 467 of the Revised Statutes, and other laws applicable, yet I seriously doubt if there is authority of law for issuing free scholarships to Carlisle to Indian students from Mexico. In fact, I am convinced that there is no such authority.

I do believe, however, that the Secretary of the Interior and the Commissioner of Indian Affairs would have authority to permit the attendance of Indian students from Mexico in our Indian schools upon payment of the per capita cost of said students in our schools, which amounts to approximately \$200 per annum, in addition to the necessary cost for transportation.

In the event, however, that the question of the attendance of Mexican Indian students in our Indian schools is to be made a matter of general policy, I believe it would be advisable and desirable to obtain legislative authority from Congress.

Very truly yours,


Assistant Commissioner.

