

43167

OFFICE OF
INDIAN AFFAIRS
Rec'd DEC 4 1891

64 1 1/2

Second Comp.
Dec. 3, 1891.

Reply to letter of 27th Ult.
in reference to applying the
appropriation "Interest on Cange
Fund" for the expenses of
the care & education of Cange
children at Carlisle School
during current fiscal year.

For under Cange
Pratt acting as
commissioner

See me
File

can properly be paid from this fund.
the expenses of the education of Cange Indian children at Carlisle
accord with my own views on the subject and I am unable to see how

Very respectfully,

[Signature]

Commissioner

2 1/2

43167

TREASURY DEPARTMENT,

SECOND COMPTROLLER'S OFFICE,

WASHINGTON, D. C., Dec. 3rd, 1891.

Hon. T. J. Morgan,

Commissioner of Indian Affairs,

Sir:

I have received your letter dated the 27th ultimo asking whether, in my opinion, the appropriation "Interest on Osage Fund", may be used to pay for the expenses of the care, support and education of Osage Indian children at the Carlisle School during the current fiscal year.

You cite a decision by Hon. W. W. Upton while Second Comptroller, dated October 24, 1884, in which it was held that while the appropriation for the Carlisle School "was definite and limited in its amount and cannot lawfully be increased by the addition of money derived from any other source, * * * There is no express restriction by Act of Congress that will prevent other Indian Children, not thereby provided for, from being educated at Carlisle if other appropriations exist which will authorize their education without limit as to place."

"Under this view of the law a requisition was countersigned on the 11th day of March 1884, placing \$5116.24 to the credit of Capt. Pratt (under "Interest on Osage Fund") to meet the ex-

43167
penses of the education of certain children of the Osage Nation."

The 2d Article of the treaty of September 29, 1865 with the Osage Nation providing for the sale of certain lands belonging to the Osage Indians stipulates that "the proceeds of such sales as they accrue, after deducting all expenses incident to the proper execution of the trust, shall be placed in the Treasury of the United States to the credit of said tribe of Indians; and the interest thereon, at the rate of five per centum per annum, shall be expended annually for building houses, purchasing agricultural implements and stock animals, and for the employment of a physician and mechanics, and for providing such other necessary aid as will enable said Indians to commence agricultural pursuits under favorable circumstances:

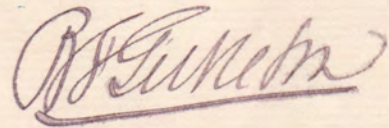
"Provided, that twenty-five per centum of the net proceeds arising from the sale of said trust lands, until said percentage shall amount to the sum of eighty thousand dollars, shall be placed to the credit of the school fund of said Indians, and the interest thereon, at the rate of five per centum per annum, shall be expended semi-annually for the boarding, clothing, and education of the children of said tribe."

I find that the question of the use of the fund termed "Interest on Osage Fund" was before this office April 23, 1889 and

it was then held by the Acting Comptroller that the treaty specifically mentioned the objects for which the fund could properly be used, and that "the enumeration of the uses to which it could be appropriated would, under a well established rule of construction, exclude any other objects than those reasonably comprehended in the uses mentioned."

This interpretation of the language of the treaty is in accord with my own views on the subject and I am unable to see how the expenses of the education of Osage Indian children at Carlisle can properly be paid from this fund.

Very respectfully,



Comptroller.

