

5-349 d

INDIAN OFFICE.

FILES.

CAUTION!

Positively no papers to be added to or taken from this file, except by an employee of the Mails and Files Division.

By order of

E. B. MERITT,

Asst. Commissioner.

5-4345

See 17294 14-220

1915

PARLISB

File No.

044

044

38707

70693-41
Education
PLF

38707-15-044
Carlisle

January 6, 1942

MEMORANDUM for Mrs. Bronson

This refers to the ruling from the Comptroller General of the United States on the subject of the use of \$1,000 bequeathed to the Carlisle Indian School by Mr. Bradford R. Wood of Albany, New York.

The Comptroller General has ruled that this money may be used "for the purpose of assisting needy students -----." The Comptroller has held that this money does not need to be expended for students at the Carlisle Indian School in view of the fact that the school is now closed, but is available for nurse training of Indian students.

I feel that we will have to abide by the one-quarter blood rule, however. Let us also handle it on a reimbursable basis. In other words, use this fund as a loan fund. There appears to be no reason why it cannot be handled as such and, at any rate, if at any time the Comptroller takes exception to this method of handling nothing will have been lost in the meantime.

Paul L. Fickinger
Associate Director of Education.

PLF
KF



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

*Noted
Honey*

B-21643

November 29, 1941

INTERIOR DEPT.
SECRETARY'S
MAIL CENTER
DEC-1 1941
TO CHIEF CLERK

The Honorable,
The Secretary of the Interior.



INTERIOR DEPT.
RECEIVED
DEC 1 - 1941
CHIEF CLERK

My dear Mr. Secretary:

I have your letter of November 3, 1941, as follows:

"By the last will and testament of Bradford R. Wood of Albany, New York, the former Carlisle Indian Industrial School of Carlisle, Pennsylvania, was bequeathed the sum of \$1,000. No restrictions were placed on the legacy, the exact language of the will being as follows:

"I give, devise and bequeath the sum of One Thousand Dollars (\$1,000) each, to the following named Churches and Institutions: *** The Carlisle Indian Industrial School of Carlisle, Pennsylvania. ***"

A check in the amount stated was deposited to the credit of the United States on Certificate of Deposit No. 4391, dated March 18, 1916. The Appropriation Act for the Department of the Interior for the fiscal year 1918 (39 Stat. 987) contained the following provision:

"The sum of \$1,000 bequeathed to the Carlisle Indian Industrial School, under the will of Bradford R. Wood, late of Albany, New York, and deposited in the Treasury of the United States is hereby appropriated and shall remain available until expended for the purpose of assisting needy students from the Carlisle Indian School in extending their education to become trained nurses'.

The Carlisle Indian Industrial School ceased to exist as an Indian School in 1918, the same year the money was made available for expenditure, and the \$1,000 bequest has remained available under the above appropriation. Since the closing of the school, the Indian Service has expended a considerable amount of appropriated funds for tuition of Indian students of the class and of the tribes formerly enrolled at the Carlisle School, who are attending vocational or training schools and institutions of higher learning. It is desired to use the fund 'Indian School, Carlisle, Pennsylvania, Bradford R. Wood Bequest (Special Fund)' for assistance of Indian

File with -

38707-15-044

mlc

students desirous of 'extending their education to become trained nurses', who are of the class and tribes formerly making up the enrollment of the Carlisle School and of the class who would be attending the Carlisle School if still in operation.

"Had the Carlisle School continued in existence, there would have been no doubt but that the above fund could have been expended for the benefit of the pupils of the school in accordance with the appropriating act. As that school has ceased to exist, making it impossible to use the legacy for assisting needy students 'from the Carlisle Indian School,' a decision is requested whether the fund 'Indian School, Carlisle, Pa., Bradford R. Wood Bequest (Special Fund)' may properly be used for the educational expenses of children of the class and of the tribes formerly making up the enrollment of the Carlisle School, who are desirous of becoming trained nurses.

"In this connection attention is directed to your decision of February 4, 1939 (B-740), holding that the trust fund 'Indian Moneys, Proceeds of Labor, Genoa School' may be used for the benefit of pupils who would have attended the Genoa School."

It has been informally ascertained through the Office of Indian Affairs that enrollment in the Carlisle Indian Industrial School was open to Indian students having advanced educational status from anywhere in the United States; that this non-reservation school was discontinued in 1918, about two years after receipt of the bequest, because the Carlisle Military Barracks in which it was housed pursuant to the act of July 31, 1882, 22 Stat. 181, was required to be turned back to the War Department for occupation as an Army rehabilitation center; and that since then students eligible for attendance have been absorbed in other similar training schools.

Although the Carlisle school has ceased to exist as such, its

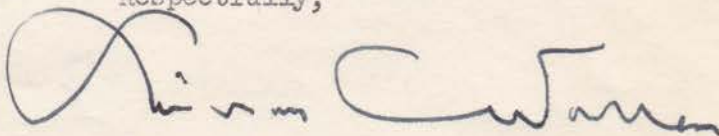
functions apparently are being continued in institutions providing educational opportunities through which Indian students of the classes and tribes formerly enrolled in that school can be afforded training as nurses in the same manner as would have been the case if the Carlisle school were still in operation. Under these circumstances, it appears that use of the Bradford R. Wood bequest of \$1,000 as proposed, for the benefit of students who otherwise would have attended the school, will be a substantial compliance with the direction of Congress in the act of May 2, 1917, as to how this particular fund should be expended.

Accordingly, in specific answer to the question you submit, I have to advise that this office will not be required to object to the use of this special fund—which the act of May 2, 1917, made available "for the purpose of assisting needy students from the Carlisle Indian School in extending their education to become trained nurses"—for the purpose indicated in your letter, even though the students whose education is to be thus extended are not "from the Carlisle Indian School".

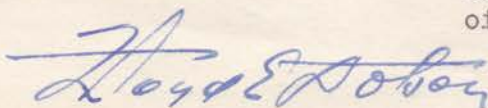
DEPARTMENT OF THE INTERIOR
December 3, 1941.

Referred to Office of
Indian Affairs for ap-
propriate action.

Respectfully,



Comptroller General
of the United States.



Chief Clerk.

38707-15-044

Indier

THE SECRETARY OF THE INTERIOR
WASHINGTON

NOV - 3 1941

Carroll
Collier

Ginsley
Ingram

The Controller General
of the United States.

My dear Mr. Warren:

By the last will and testament of Bradford R. Wood of Albany, New York, the former Carlisle Indian Industrial School of Carlisle, Pennsylvania, was bequeathed the sum of \$1,000. No restrictions were placed on the legacy, the exact language of the will being as follows:

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FOR FILE

students desirous of "extending their education to become trained nurses", who are of the class and tribes formerly making up the enrollment of the Carlisle School and of the class who would be attending the Carlisle School if still in operation.

Had the Carlisle School continued in existence, there would have been no doubt but that the above fund could have been expended for the benefit of the pupils of the school in accordance with the appropriating act. As that school has ceased to exist, making it impossible to use the legacy for assisting needy students "from the Carlisle Indian School," a decision is requested whether the fund "Indian School, Carlisle, Pa., Bradford R. Wood Bequest (Special Fund)" may properly be used for the educational expenses of children of the class and of the tribes formerly making up the enrollment of the Carlisle school, who are desirous of becoming trained nurses.

In this connection attention is directed to your decision of February 4, 1939 (B-540), holding that the trust fund "Indian Moneys, Proceeds of Labor, Genoa School" may be used for the benefit of pupils who would have attended the Genoa School.

Sincerely yours,

(Sgd.) JOHN J. DEMPSEY
Acting Secretary of the Interior.

Hon. Lindsay C. Warren,

Comptroller General of the United States.

MLC:vp

10 - 10

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON

January 23, 1937.

Mr. John Lindner,
Resident Trustee Annie E. Peale Trust Fund,
Wellington Hotel,
Carlisle, Pa.

Dear Mr. Lindner:

Your letter of January 20, 1937, with enclosures, has been received.

In reply I have to advise that I have conferred with the Fiscal Division of the Office of Indian Affairs here and was informed that under the rules of the Federal Reserve Bank no member bank is permitted to pay interest on deposits beyond the date of the expiration of certificates, but that there is nothing to prevent a bank from crediting a trust fund account with the amount of a certificate of deposit. No interest, however, may be paid for the period that has elapsed after the maturity of the certificate.

As I understand the matter, the interest period on this fund expired early or about the middle of December, 1936. Since that date the Court has "ordered and decreed that the trustees close out the trust by paying all proper charges and expenses of administering the account, and dividing the remainder into such shares as shall, in their opinion, carry out the charitable intent of Annie E. Peale, to be paid to deserving Indian girls pursuing their education", etc. It would seem, therefore, that the Carlisle Trust Company has authority to credit the account of the trustees with the full amount of the deposit, but cannot pay interest for the period that has expired since the last interest was credited, which was presumably December 15, 1936.

I trust this matter can be adjusted at an early date so we can deliver the checks to the Indian girls as some of them are really in an embarrassing situation and may have to quit school if their checks are held up much longer.

The copy of the Court Order is returned to you herewith.

Very sincerely,

O. H. Lipps,
Field Representative.

Copy to:

Carlisle Trust Company,
Carlisle, Pa.

JOHN LINDNER

CARLISLE
PENNSYLVANIA

Jan. 20, 1937

Mr. Oscar H. Lipps
Dept. of the Interior
Indian Field Service & Educ. Dept.
Washington, D. C.

Dear Friend Lipps:

Enclosed is copy of letter I addressed to Hon. Fred S. Reese, which is dated Jan. 7, 1937, and which is self-explanatory. Also the Decision of the Court which Ordered the distribution of the Indian Trust Fund (Annie E. Peale Legacy).

In mid December I went to the Carlisle Trust Company and had the interest entered in our bank book of deposit so as to be sure and have the accurate amount for distribution. It has just expired and I told Mr. Landis, President, that we are distributing the entire Fund, and that we would not be interested in any Bonds or Mortgage or interest account. On the 15th of December, 1936, the Attorneys, Davies and Harrigan, were paid \$250.00 by the Bank. At the same time, I went to see the Judge to report to him that we were ready to distribute the Fund, which was agreeable. I gave our Attorney, Mr. Wetzel, a statement as far as we have gone with checks signed by you and Mr. Peel.

It was by accident that I saw a notation on the margin "not to be paid till June 15, 1937." The Bank nor Mr. Wetzel did not notify me that they would re-invest that sum as 2 1/2%. In fact, they were authorized by me not to that we were checking out the entire Fund. I see what we were up against and that there might be collusion. I went and had an interview with the Hon. Judge of Cumberland Co., Fred S. Reese. I showed him a clean statement right up-to-date with the beneficiaries, amounts, etc., and the Judge seemed to be pleased with my statement, etc. The result was that, after I met in conference the Judge in Chamber, the next day I wrote the letter, copy of which is enclosed. I notified our lawyer that we wanted this immediately attended to and not held off until Feb. 28. He did this, and at once the Judge approved the distribution of the Fund.

To me or the average man, no doubt, ^{the} ~~the~~ whole transaction was a high-handed affront; and Mr. Landis, I am told by our Attorney, got into immediate touch with Washington with Federal Bank Reserve, that looks after this section of the country's Federal Reserve Banks to have these Funds returned to go into deposit so we may distribute the Charity Trust Fund for Scholarships of worthy Indian girls. Mr. Wetzel suggested that he would write you. I told him I would attend to it and communicate with you at once today. If you will have your Dept. get in touch with the Federal Reserve who has charge of this section of the Banks of Federal Reserve, no doubt they will be glad to order the Carlisle Trust Co. to have these funds made payable for distribution.

Kind personal regards

John Lindner

Cip

JOHN LINDNER

CARLISLE
PENNSYLVANIA

Jan. 7, 1937

Hon. Fred S. Reese
Present Judge of Cumberland Co., Pa.
Carlisle, Pa.

Dear Sir:

I wish to thank you for the courtesy and attention you extended to me on Wednesday.

I wish to draw your attention to a situation regarding the Annie E. Peale Legacy. I notified the Bank a few months ago that we were going to wind up the Trust Fund and check out to deserving Indian girls in need of this Fund; again, about Nov. 1 and in Dec., 1936. The Bank did not notify me the termination of deposit on interest, which is customary so that Trustees of the Trust Fund may direct the continuance of interest investment or Bond and Mortgage. The Bank has not notified me up to this time and it was by chance that I saw a notation on the margin of my statement which I gave to our attorney, Mr. G. Frank Wetzel. The notation is this: "Cannot draw out before June 15, 1937."

After several months of work by the Trustees and Directors of Education in Indian Affairs, both here and in Alaska, we find that our funds are tied up again for about six months without our knowledge.

We had checks ready for distribution November 13, December 1 and December 28, 1936. Our Attorney knew that we were going to check this out and evidently overlooked the course of procedure in advertising, etc.

It occurred to me that if it were possible and legal if your honor could issue an Order of the Court to have these checks released so that Indian girls could continue in their Schools. It will be a great disappointment and hardship to them not to receive these funds now. We really expected to get these checks out before Christmas. Should the checks be released and distributed, I am sure the Bank would honor them by Order of the Court. I hope I am right in this matter. There will be a balance of a few hundred dollars and that could finally be sent to the Indian Rights Association to wind up the entire Trust Fund.

The trouble was, Mr. Lipps was to be here in September so we could make all arrangements but was sent to Alaska on a very important Government mission.

JOHN LINDNER

CARLISLE
PENNSYLVANIA

2

Hon. Fred S. Reese

When he was arranging to return ^{to} the States they had trouble in the Bering Sea; the ship's propeller was damaged and they were delayed 1400 miles from Juneau. Then again there was delay on account of the Marine Strike on the Pacific Coast which interfered with transportation. In another letter he wrote "I may have to return to the States by airplane." Finally, he got on a Government Transport and was again delayed in the stormy voyage. He reached the States just a few days before Christmas, instead of late in November or the first of December.

I hope there is a way to arrange to make these payments and assure you that it will be highly appreciated by the Trustees and the Commissioners of Education and the Indian Protective Assoc. It being a charity fund, we have handled it in a very economical way and increased the fund considerably. If it should be continued and length of time it would mean more expense and probably additional attorney fees. This, of course, we hope to avoid. Therefore, I pray, your Honor, that you give this your consideration in the interest of the worthy Indian girls, who are expecting these checks towards Scholarships.

Again I thank you, your Honor.

Sincerely yours

John Lindner.

June 1, 1931.

Mr. Dodd

Transmitter
as suggested

Dr. Ryant

Attention is invited to a memorandum and proposed item of legislation in this file for the purpose of returning a bequest made to the Carlisle Indian School by the late Bradford R. Wood. It is suggested that this matter be sent to Mr. Dodd for consideration in connection with the legislation at the fall session of Congress.

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The items of legislation (proposed bills) are prepared in the divisions and not by me. This procedure is proper in the case of estimates but where legislation is necessary the responsibility for preparation of bill and accompanying letter rests with you. *Dodd*

RHH

Thompson

File with
38707-15
RHH

Pa-Schs
6707-15
2756-23
G A C

5-1143

DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN IRRIGATION SERVICE

SUPERVISING ENGINEER
528 FEDERAL BUILDING
LOS ANGELES, CALIF.

January 29, 1923. 1923



Mr. John Lindner,
Carlisle, Pa.

My dear Mr. Lindner:

The Office of Indian Affairs, Washington, D. C., forwarded to me your letter of January 10, 1923, wherein you request certain information relative to the Anna E. Peale bequest, which was left to further the education of Indian girls, and I have to advise you that the account is being kept by Mrs. Nellie R. Denny, who succeeded Mr. John Francis, Jr., as Trustee. I recommended the appointment of Mrs. Denny as Trustee and, as I could not remain at Carlisle, I turned the accounts over to her knowing that she was highly competent and honorable and was very much interested in the Indian girls and kept in close touch with them.

Mrs. Denny is a graduate of Carlisle, a graduate of one of the Pennsylvania State Normals, for many years was an employee of the Carlisle Indian School, and until very recently was a resident of the town of Carlisle. She now resides at 110 Waverly Street, Palo Alto, California, and I have written her requesting that she furnish you with the desired information.

I trust you are enjoying the best of health, and wish you continued good health, happiness and prosperity for the New Year.

Yours very truly,

C. V. Peel,
Former Special Indian Agent.

*Copy to
Indian Office*

*file
over*

38707-15-044 Carlisle

Ed-Schools

7707-15

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G A C

3

JAN 24 1923

Mr. Claud V. Peel,
526 Federal Building,
Los Angeles, California.

My dear Mr. Peel:

There is inclosed herewith a letter addressed to you by Mr. John Lindner concerning the Annie E. Peale bequest. A copy of Office letter to Mr. Lindner, concerning the same matter, will also be sent you.

Very truly yours,

(Signed) E.B. Meritt

Assistant Commissioner.

1 EEC 32

FILED BY C. P. F.

E Schools
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3

JAN 24 1923

Mr. John Lindner,
Camp Lindner,
Carlisle, Pa.

FILED BY G. E. E

My dear Mr. Lindner:

The Office has your two letters of January 10, one of which was addressed to Mr. Claud V. Peel, concerning use of the Annie E. Peale bequest for the benefit of Pauline B. Lay.

There is inclosed copy of a letter addressed to the Attorney General, under date of August 17, 1922, by the United States Attorney at Scranton, Pennsylvania. The Office has no other record of the balance remaining in the bequest and no statement concerning the fund is kept here. Possibly the other trustees can give you the information you wish, showing how the fund has been expended.

Your letter to Mr. Peel is being forwarded to him at 526 Federal Building, Los Angeles, California.

Very truly yours,

(Signed) E. B. Meritt

1 EEC 32

Assistant Commissioner.

Copy to Mr. Peel.

Carbon for Indian Office.

CAMP LINDNER
FOREST HILLS
CARLISLE, PA.
ARMY CONVALESCENT CAMP

Jan. 10/20

RECEIVED
JAN 12 1923
2756

E. D. Meritt, Assistant Commissioner,
Indian Affairs -

Dear Sir - Washington, D. C.

I beg to advise that I am writing
Commissioner, C. T. Peck, in reference
to Trust fund for which I am one
of the Trustees - requesting some
information concerning same.

As soon as I receive this
I will confer with the other
Trustees to learn what can be
done in the application made by
Mrs. D. G. Snyder of West Chester, Pa.
for Pauline B. Lay.

Have also written Mrs. Snyder
explaining my position in the
matter.

Yours very truly,
John Lindner
per N. J. K.

Ed Schools
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99513-22
G A C

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DEC 28 1922

Mrs. D. Y. Snyder,
31 S. High Street,
West Chester, Pa.

FILED BY C. P. B.

My dear Mrs. Snyder:

The Office has your letter without date, concerning your desire that some assistance be given Pauline B. Lay, so that she may finish her normal course.

It appears Pauline is an Indian girl and the Office presumes she previously attended Carlisle. There are no Government funds which could be used to give assistance in such case, but the Office suggests that you write to Mr. John Lindner, Carlisle, Pennsylvania, who is one of the trustees to apply the income from a bequest of Annie E. Peale for the benefit of Indian girls.

Very truly yours,

(Signed) E. B. Meritt

12 DEC 27

Assistant Commissioner.

31 S. High St.
West Chester Pa.

To Supt. of Indian Affairs,
Washington
D.C.



RECEIVED

DEC 21 1922

Dear Sir,

E. Ach
We have had an Indian girl Pauline B. Lay, making her home with us for the past four years. Last June she was graduated from the High School and this fall entered the State Normal School here for a two year course in teaching.

The books and other expenses at the Normal School seem to be rather expensive with our help she has about gotten through the present semester, which ends in the latter part of January. She says she cannot go on next year without more help or give up and go to work. I am afraid if she does

this and perhaps under the
wrong influence in Philadelphia
where she speaks of going into a
factory, where she says another
Indian girl makes thirty dollars
a week - I do not know how many
weeks she can make this, she
never will finish the education
she wants and needs. She has
progressed very well in her
studies and I feel very confident
would make a splendid teacher
for children. We have done every
thing for her that we could and
I am sure she would bear me out
in this statement. She is a very
nice girl in every way and I do want
her to accomplish what she has ^{planned}
for her life work if possible.

Can you tell me of any way she
might get assistance from the government
or are there any available funds

for such a purpose?

I am not sure if I am
addressing an Indian man or
not - but the Indian influence
does not seem of the best, and
I think too much of Pauline
to have her come under it
~~for~~ ~~an~~ ~~entirely~~. After visiting with
them there is a very noticable
difference. I trust I am not
offending. We had this girl's
sister with us two years.

Trusting to hear from you,
soon, I am,

Very truly,

Mr. D. H. Snyder.

JUSTIFICATION

The last will and testament of Bradford R. Wood, deceased in 1915, contained the following provisions:

I give, devise and bequeath the sum of One Thousand Dollars (\$1,000) each, to the following named Churches and Institutions:

(7) The Carlisle Indian Industrial School of Carlisle, Pa.

This money was duly paid to the United States in accordance with such bequest. In accordance with the decisions of the courts a bequest in this language has been construed to be a gift to the United States, but not available for expenditure by the Interior Department without appropriation thereof by Congress.

The Carlisle School has been restored to the War Department, but the money in question could not be expended for any beneficial purposes connected with such former institution. As this gift, however, was not intended by the testator for other purposes than such as would relate to the Carlisle Indian School, an equitable adjustment of this matter would appear to demand that the money which is on deposit in the Treasury of the United States be restored to the estate of the deceased.

10-4-22

b.l.c.

[Signature]

H

Be it enacted by the Senate and House
of Representatives of the United States of America
in Congress Assembled, That the sum of \$1,000 be-
queathed to the former Carlisle Indian School, Penn-
sylvania, by Bradford R. Wood, late of Albany, New
York, together with accrued interest thereon, if any,
shall be restored to the estate of said Bradford R.
Wood, and the Secretary of the Interior be, and he is
hereby, authorized to ascertain and make payment to
the representatives of said estate legally entitled to
receive said moneys, which are hereby appropriated.

2 9

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FILED BY G. P. B.

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J U S T I F I C A T I O N

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Department of Interior

Washington

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of Representatives of the United States of America
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shall be restored to the estate of said Bradford R.
Wood, and the Secretary of the Interior be, and he is
hereby, authorized to ascertain and make payment to
the representatives of said estate legally entitled to
receive said moneys., which are hereby appropriated.

IN REPLY REFER TO
INITIALS AND NUMBER

Department of Justice,
Washington.

FBC-EW

Indian Office

August 24, 1922.

203168-7

DEPT OF THE INTERIOR
RECEIVED

AUG 25 1922

TO INDIAN OFFICE,
APPTS., MAILE & FILES

DEPT OF THE INTERIOR
RECEIVED

AUG 25 1922

TO SOLICITOR,
DEPT OF JUSTICE

Hon. Albert B. Fall,
Secretary of the Interior,
Washington, D. C.

Sir:

I have the honor to inclose herewith a letter from the United States Attorney at Scranton, Pa., dated August 17, 1922, referring to the proceedings in the Orphans' Court of Cumberland County, Pa., respecting a bequest of Annie E. Peele, deceased, for the benefit of the Indian girls of the Carlisle School.

The inclosed photostat copy is in response to the letter from your office dated August 1, 1922, signed M. R. Bock, Assistant to the Secretary.

Respectfully,

For the Attorney General.

Robert H. Lovett

Assistant Attorney General.

(Incl. 107127)



FILED BY C. P. F.

RECEIVED

AUG 20 1922

*E. Sch
38707-15*

on 2/10/22

DEPARTMENT OF JUSTICE

Office of United States Attorney

WESTERN DISTRICT OF PENNSYLVANIA

SCRANTON

TERMS OF COURT

WILLIAMSPORT, SECOND MONDAY IN JANUARY.
SCRANTON, THIRTY MONDAY IN FEBRUARY.
HARRISBURG, FIRST MONDAY IN MARCH.
WILLIAMSPORT, SECOND MONDAY IN APRIL.
SCRANTON, THIRD MONDAY IN MAY.
HARRISBURG, FIRST MONDAY IN JUNE.

August 17, 1922.

The Attorney General,
Department of Justice,
Washington, D.C.

Sir:

Acknowledgment is made of the receipt of your letter of 3rd instant, with enclosure 111584 and copy of letter from the Secretary of the Interior by M.R.Brock, his Assistant, with reference to certain proceedings in the Orphans Court of Cumberland County respecting bequest of Annie E. Peele, deceased, for the benefit of the Indian girls of the Carlisle Indian School. In reply I beg to say that by proceedings recorded in the Orphans Court docket for Cumberland County, Pennsylvania, No. 52 page 368 it appears that the auditor in disposing of the account filed by the Trustees determined that on the 18th day of November, 1919 there was a balance in the hands of the Trustees of \$3109.56. The Trustees were directed to apply the income for the benefit of Indian girls at any Indian school in the United States and the Carlisle Trust Company of Carlisle, Pennsylvania, was appointed depositor to look after the investment of the said fund. The trustees at that time were John Lindner, - Carlisle, Pa., Claude B. Peele, formerly of Carlisle Indian School but now believed to be at the Indian School at Chilocco, Oklahoma and Mrs. M. R. Denny now believed to be with her husband at the University of California in connection with the athletic department of that institution.

Trusting this answers the inquiries from the Secretary of the Interior in this matter, and returning all enclosures herewith, I beg to remain,

Very truly yours,

203168-7

Andrew B. Dunsmore
Andrew B. Dunsmore,
United States Attorney

ABD-N Encls.

AUG 22 1922

RECORDED



IN REPLY REFER TO
INITIALS AND NUMBER

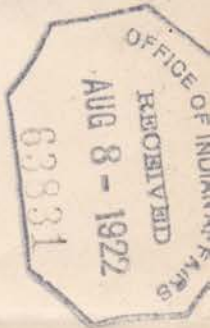
F.B.C.

203168-5

Department of Justice,
Washington.

FBC/EMB

August 3, 1922.



The Honorable,
The Secretary of the Interior,
Washington, D. C.

S i r:

I have the honor to acknowledge receipt of your letter of August 1, 1922, signed by M. R. Brock, Assistant to the Secretary, in the matter of certain proceedings instituted in the Orphans Court of Cumberland County, Pennsylvania, to settle a trust under a bequest of Annie E. Peale, deceased, for the benefit of the Indian girls of the Carlisle Indian School.

A copy of your letter has been forwarded to the United States Attorney at Sunbury, Pennsylvania, with a request for a prompt report as to the result of the proceedings in said Orphans Court.

Respectfully,

For the Attorney General,

Robert H. Lovett
Assistant Attorney General.

FILED BY C. P. E

38707-22
E - sch

MAP
8-9-22
H

AUG-1 1922

The Honorable

The Attorney General.

Dear Mr. Attorney General:

Under date of August 16, 1919, the Assistant Attorney General wrote to the Secretary of the Interior (203168-4, LEK), inclosing with his letter a communication from Rogers L. Burnett, United States Attorney, relative to certain proceedings instituted in the Orphans Court of Cumberland County, Pennsylvania, to settle a trust under a bequest of Annie E. Peale, deceased, for the benefit of Indian girls of the Carlisle Indian School.

There does not appear, however, in the record before the Department any further information as to the judgment of the court rendered in the case. At your convenience, I would appreciate further advice as to any judgment which may have been rendered in the premises so far as least as it may affect the bequest so made for the benefit of the Carlisle School.

Respectfully,
(sgd.) M. R. BROCK.

Carbon for Indian Office.

Assistant Secretary.

LEK-EW

Department of Justice,
Washington.

August 16, 1919.



S. G. Hopkins,
Assistant Secretary,
Department of the Interior,
Washington, D. C.

Dear Sir:

I inclose herewith copy of letter of August 11th from Rogers L. Burnett, United States Attorney, at Scranton, Pennsylvania, with respect to proceedings in the Orphans Court of Cumberland County, Pa., to settle a trust under a bequest of Annie E. Peale, deceased, for the benefit of the Carlisle Indian School, from which it appears that the condition of the matter, so far as the Government's interests are concerned, is entirely satisfactory, and no further action need be taken. I am, therefore, returning herewith the files of the Indian Office transmitted with your letter of July 8, 1919.

Respectfully,

For the Attorney General.

Frank Davis, jr.
(Frank Davis, jr.)
Assistant Attorney General.

(2 Inclosures)

FILED BY I. M. S.

Scranton, Pa., August 11th, 1919.

The Attorney General,
Department of Justice,
Washington, D. C.



Sir:

Further answering your letter under date July 11th, 1919, instructing me to take such action as may be necessary to protect the interest of the United States in the matter of certain proceedings instituted in the Orphans Court of Cumberland County, Pennsylvania, to settle a trust under a bequest of Annie E. Peale, deceased, for the benefit of the Indian girls of the Carlisle Indian School, I desire to report as follows:

After preparing a brief of law touching the doctrine of cy pres in Pennsylvania, I sent one of my assistants to Carlisle, prepared to do all that lay in his power to preserve the trust for the benefit of Indian girls. Upon investigating the status of the litigation touching this matter, my assistant ascertained that, thanks to the zeal of John Lindner and C.V. Peel, trustees of the above fund, everything possible had been done and was being done to preserve the fund in question for the benefit of the Indian girls. Joseph McKeehan, N. Hanover Street, Carlisle, attorney for the trustees, is vigilantly and efficiently defending the trust, and with every prospect of success. He invoked all the provisions of the Act of May 23rd, 1895, P. L. 114, to

preserve the trust by an application of the doctrine of cy pres. His brief already contained all the helpful citations and statutes and judicial decisions which we were prepared to furnish him.

I have every reason to believe that the interests of the Government and of the Indian girls in this matter are being protected in the fullest measure.

I am making merely a brief report to the Department in reference to this matter because of the fact that my above mentioned assistant proceeded from Carlisle to Washington, as authorized to do by you, and in an extended consultation with Mr. Higgins of the Indian Office, Department of the Interior, fully explained the status of the legal proceedings now pending in the Courts of Carlisle, and it was the belief of my assistant and the representative of the Indian Office, after fully and in detail going over the entire matter, that the condition of this matter was entirely satisfactory from the Government's viewpoint; that there was every indication that the Courts would preserve the trust for the benefit of the Indian girls elsewhere; that nothing further in the matter need be done by the Department of Justice or the Indian Office.

We further suggest that this case is closed as far as the Government is concerned and I am enclosing herewith the Indian Office records in the case for return by you to the Indian Office.

Respectfully,

Rogers L. Burnett,
United States Attorney.

LAW OFFICES OF
J. W. WETZEL
20 S. HANOVER STREET
CARLISLE, PA.

JUL 22 1919
62876

July 21, 1919.

Mr. E. B. Meritt,
Asst. Com. of Indian Affrs.
Washington, D.C.

My dear Mr. Meritt:-

Yours of the 18th, inst., containing letters from Hon. Franklin K. Lane, Sec. of Interior, to Hon. Newton D. Baker, Sec. of War, and also that of Commissioner of Indian Affairs, Hon. Cate Sells, to Major Gen Gorgas, at hand.

I will present these letters at the next meeting of the auditor, and accompany them with the following admission of record, viz; " In pursuance of the foregoing authorities, The Carlisle Industrial Indian School, located at Carlisle, Pa., was on the 1st, September 1918, abolished,- the students thereof distributed among other existing Indian Schools, and the property site of the School, was taken possession of and occupied by the U. S. Army, Gen. Hospital No. 31." This will make the record absolutely complete in relation to the abolishment of the School.

A fine legal question is raised with respect to this Peale Legacy Fund. I am informed that proof of the next of kin will be given, and the contest therefor will be, whether or not, ~~as~~ a Trust exists at all, and that now, since the abandonment of the School, and the failure to apply it, the money does not revert to the next of kin.

Yours truly,

J. W. Wetzel
JUL 23 1919
ED. CARLSON S. J. L.

file with 61812-18-131

E. Sch

Ed-Sch.
59949-19
C

JUL 18 1919

Mr. J. W. Wetzel,
Attorney at Law,
20 South Hanover Street,
Carlisle, Pa.

FILED BY G. P. F.

Sir:-

Referring to your letter of July 11, 1919,
I am inclosing a certified copy of a letter from Hon.
Franklin K. Lane, Secretary of the Interior, to Hon.
Newton D. Baker, Secretary of War, giving consent
to the turning over of the Carlisle Indian School
for the purpose indicated therein. A certified
copy of a letter from the Commissioner of Indian
Affairs to Major General W. G. Gorgas, Surgeon Gen-
eral, War Department, under date of September 30,
1918, is also inclosed.

Very respectfully,

E. B. Meritt
Assistant Commissioner.

7-WC-15

INITIALING COPY - FOR FILE

CARLISLE

JWT-EW

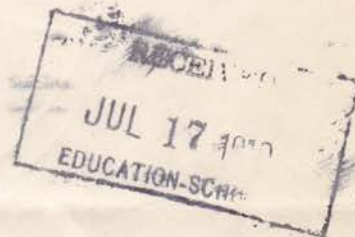
Department of Justice,
Washington.

203168-1

July 11, 1919.



Hon. S. G. Hopkins,
Assistant Secretary of the Interior,
Washington, D. C.



Dear Sir:

Receipt is acknowledged of your letter of the 8th instant, enclosing correspondence of Hon. J. W. Wetzel, Carlisle, Pa., and also certain records of the Indian Office relating to the settlement of a trust arising under a bequest of Annie E. Peale, late of Carlisle, Pa., deceased, in trust for the benefit of the Carlisle Indian School.

In compliance with your request, I have forwarded said correspondence and records to the United States Attorney for the Middle District of Pennsylvania, Scranton, Pa., with instructions for him to take such action as may be necessary to protect the interests of the United States in the matter, but not to enter appearance for the Government in any litigation that may be pending or may be instituted, as such appearance can not be entered in a state court (Stanley v. Schwalby, 162 U. S. 255).

Respectfully,

For the Attorney General.

Frank Davis, jr.
(Frank Davis, jr.)
Assistant Attorney General.

See file with 61812-18-131
Part 1
E. Sch

Subject,
Annie E. Peale, Legacy.
Carlisle Indian School.

LAW OFFICES OF
J. W. WETZEL
20 S. HANOVER STREET
CARLISLE, PA.



41374-19
38896-19
345-98-19

July 11, 1919.

Mr. E. B. Merrit,
Assistant Indian Commissioner,
Washington, D.C.

FILED BY C. P. F.

My dear Mr. Merrit:-

Mr. Vale, the auditor in the Annie E. Peale Legacy Fund, to the Carlisle Indian School matter, met to-day at his office. I appeared, representing the accountant. I anticipated possibly you or some other representative of the office would be here, and the fact that the Indian School had been abolished, proven.

It is essential to the proper disposition of this Fund that the fact of the abolition of the School be proven. In order that the Court may properly dispose of the question. The best proof of this fact, would be a certified copy of the order of the Indian Commissioner to the Superintendent of the School, or Secretary of the Interior to the Commissioner, in reference to the matter. If, such a certified copy is sent to me, it would save attendance in person of the officer in charge of the records, showing that fact. If you do not have an official record to be copied, then send a letter from the Commissioner to me, to admit the fact and file the letter.

Four of the next of kin of Miss Peale, wrote a letter addressed to the Trustees, claiming the Fund as next of kin. A friend of Gen. Pratt and one of the Trustees, Mr. Lindner, by an attorney, appeared simply to invoke the Doctrine of Cy-pres in the matter. The Auditor, of course, expressed no opinion, and will not do so until he files his written report, after he has obtained all the essential facts. Both the Cy-pres doctrine and the next of kin interests will be advanced and supported by counsel after the facts have all been adduced.

The audit adjourned until Friday, July 25th, at 2 P.M. In the meantime, kindly send me a copy of the order for the abolition of the School, or a letter as indicated, and advise me if you have anything in addition to offer, or directions to give.

Yours truly,

J. W. Wetzel

Ensch
145
17

Ed-Sch.
38896-19
R A M

MAY -9 1919

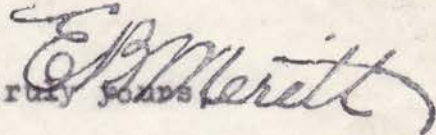
Mr. J. W. Wetzel,
Carlisle, Pa.

FILED BY C. P. F.

My dear Mr. Wetzel:

Inclosed are the checks, properly signed,
which you forwarded to the Office for Mr. Peel's sig-
nature.

Very truly yours,



5-WC-7

Assistant Commissioner.

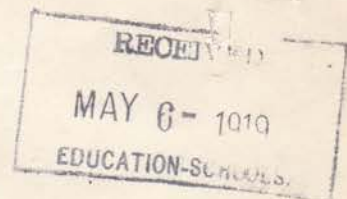
INITIALING COPY - FOR FILE.

Ed-Sch.
34598-19
R A M



DEPARTMENT OF THE INTERIOR
United States Indian School

CHILOCCO, OKLAHOMA



May 2, 1919.

FILED BY C. P. F.

The Honorable,
The Commissioner of Indian Affairs,
Washington, D. C.

Sir:



Complying with the request as contained in Office letter of April 28, 1919, I am enclosing herewith, properly sworn to, a statement of the final account of the Trustees of the Annie E. Peale Legacy to the Carlisle Indian Industrial School, under the will of Annie E. Peale of Philadelphia, Pennsylvania, for the use of Indian girls at said school. There is also enclosed herewith a statement of the expenditures.

I am also enclosing three checks paying the amounts as per the last three items on the statement. These checks it appears were made by Mr. J. W. Wetzel, Attorney.

The Office letter does not so advise but I am under the impression that Mr. Wetzel is trying to have this legacy set aside on account of the closing of the Carlisle School and have the money turned over to the heirs of the said Annie E. Peale.

Trusting that these matters have been attended to in accordance with the wishes of the Office, I am,

Very respectfully

C. V. Peel

Traveling Auditor.

CVP-G

THE TRUSTEES CLAIM CREDIT FOR THE FOLLOWING PAYMENTS
ON ACCOUNT OF SAID FUND? SINCE FILING STATEMENT MARCH 28?
1917. IN ORPHANS COURT, RECORDED IN ORPHANS COURT DOCKET
NO.54, page 494.

		CR.	
1917.	Paid	--	
Apr. 11,	/J.W.Wetzel, Professional services	-	\$5.00
Apr. 11,	J.W.Wetzel, Fees of Court	- - -	2.50
May 8,	Carlisle Trust Co., Bond premium	- -	5.00
1918.			
May 15,	Do.	- -	5.00
Oct. 24,	Do.	- -	5.00
Dec. 15,	Gimbel Bros., Clothing for Sadie Metoxen a Carlisle pupil taking Nursing	- -	52.50
1919.			
Jan. 27,	Paid J.W.Wetzel, Professional services, stating account, etc.	- - -	25.00
Jan. 27,	Paid Jos. J. Totton, Register, filing account - - - -	-	6.00
Jan. 27,	Paid W.F.Hartzell, Clerk of Court, costs on account - - -	-	5.00
			\$111.00
	Balance in fund - - -		3240.56
			<u>\$3351.56</u>



I certify that there are no known claims outstanding
unpaid against this fund.

Ed-Sch.
34598-19
E A M

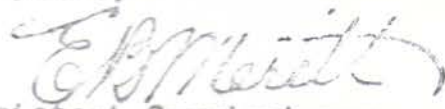
Mr. Claude V. Peel,
Chilocco Indian School,
Chilocco, Oklahoma.

APR 28 1919

My dear Mr. Peel:

Inclosed is a letter from J. W. Wetzel, which
is self explanatory. The Office approves of his pro-
cedure.

Very truly yours,



Assistant Commissioner.

4-WC-24

EXTRA COPY - FOR FILE.

DEPARTMENT OF THE INTERIOR

WASHINGTON

JUL - 8 1919



Dear Mr. Attorney General:-

I am inclosing certain correspondence from Hon. J. W. Wetzel, 20 South Hanover Street, Carlisle, Pa., and also certain records of the Indian Office from which it appears that proceedings have been instituted before the Orphans' Court, Cumberland County, Pa., having in view the settlement of a certain trust arising under a bequest of Annie E. Peale, late of Carlisle, Pa., in trust for the benefit of the Carlisle Indian School. From the record transmitted you will note that the bequest mentioned was in the following language:-

Fifth:- I give and bequest to the United States Indian Industrial School at Carlisle, Cumberland County, Pennsylvania, the sum of three thousand dollars in trust for the maintenance and education of Indian girls at the Training School at Carlisle Barracks, Pennsylvania, and I direct that the said sum be paid to Dr. C. R. Agnew of New York City, Captain R. H. Pratt of the United States Army, and Bishop William H. Hare, whom I constitute and appoint Trustees to manage and apply the same in such manner as they may deem best for the purpose above mentioned and in case any of the trustees should fail to serve or from any cause whatever by death, incapacity or otherwise be unable to do so, I hereby authorize the remaining trustee or trustees to fill the vacancy by appointment of such person or persons as they may deem fit or failing any such trustee or trustees willing or able to act then I authorize the proper Court of Cumberland County aforesaid to appoint the needful number of trustees to carry out the purposes of this trust.

FILED BY 1 M. 89

The fund has been administered by the successive trustees in accordance with the said bequest and dividends arising therefrom have been applied for the benefit of Carlisle School Indian students. However, more recently, the Carlisle Indian School has been discontinued and returned to the War Department for its use. Under date of April 11, 1919, the Assistant Commissioner of Indian Affairs, with my approval, advised Judge Wetzel that there was reasonable doubt as to the failing of the trust with the abandonment of the Carlisle School and perhaps a question as to its application for the benefit of another Indian School under the doctrine of cypres: That under the circumstances it appeared proper for the trustees to present these matters to the Court for judicial determination.

I wish to request that the United States Attorney for the District in question examine the record of this case and enter his appearance in behalf of the United States. Furthermore that he take any further steps which may appear essential to protect the interests of the United States in this matter.

The Department has not been served with notice of any suit or process of any character.

Cordially yours,

(Sgd.) S. G. HOPKINS.

Assistant Secretary.

The Honorable,

The Attorney General.

LAW OFFICES OF
J. W. WETZEL
20 SOUTH HANOVER STREET
CARLISLE, PA.

June 18, 1919

E. B. Merrit, Esq.,
Ass't. Commissioner,
Indian Office,
Washington, D. C.

My dear sir:-

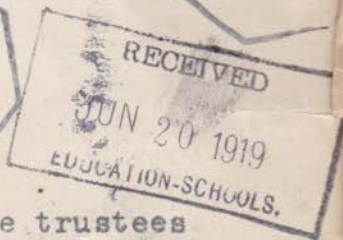
*6-25-19
4157-119*

This is to advise you that the account of the trustees in the Anna E. Peale legacy matter as filed by Mr. Peel has been confirmed by the Court, and Thomas E. Vale, Esq., of Carlisle, Pa. appointed the auditor to dispose of the fund. Mr. Vale has fixed Friday, the 11th of July next at 2:00 P.M. as his first meeting in the audit. You can arrange for appearance at that time, or if you will communicate with me, I will advise you as desired.

Yours truly,

J. W. Wetzel

FILED BY J. M. S.



LAW OFFICES OF
J. W. WETZEL
20 S. HANOVER STREET
CARLISLE, PA.

RECEIVED
MAY 14 1919
EDUCATION-SCHOOL.

May, 12, 1919.

Ed.-Sch-

38896-19

R.A.M.

Mr. E.B. Meritt,

Asst. Com. Indian Affairs,
Washington, D.C.



Dear Sir:-

Yours of the 9th. inst. enclosing account of Claude V. Peel,
~~Master~~ in the matter of Annie E. Peak Legacy to the late Carlisle
Indian School and three checks for expenses at hand.

I want to thank you for getting the papers here in time for
filing for our June term of Orphans Court. I do not anticipate any
exceptions to the account. An auditor will be appointed on the 17th.
of June next, when appointed he fixes a day for a meeting of part-
ies interested. I will promptly advise you.

Yours truly,



Ed-Sch.
94966-18
R H H

APR 11 1919

Hon. J. W. Wetzel,
20 South Hanover Street,
Carlisle, Pa.

FOR FILE

Sir:

Though the matter of the Annie E. Peale legacy to the Carlisle School has been delayed somewhat in this Office pending some consideration of the law involved, as well as the facts, it is now inclined to agree with your contention that there is a reasonable doubt whether the trust fails with the abandonment of the Carlisle School, thereby entitling the estate to these moneys, or whether it may still be applied at another Indian School under the doctrine of cy pres.

Under the circumstances it is thought your suggestion should be adopted, viz., that application be made to the Orphans' Court for a judicial determination of the question and that such application may properly be made by the trustees. Claude V. Peel is at present detailed to the Chillicothe Indian School, Chillicothe, Oklahoma, and John Francis, Jr. is now Assistant Field Director, American Red Cross, Boston, Massachusetts.

Therefore I believe it will be advisable and proper for the trustees, including yourself, to make such application to the Orphans' Court. The Commissioner of Indian Affairs should receive due notice of such proceedings in order that the Government may be duly represented by counsel in case it be deemed essential.

Respectfully,

E. B. Meritt
Assistant Commissioner.

Approved: APR 14 1919

(Sgd.) S. G. HOPKINS.
Assistant Secretary.

COPY - FOR FILE

X

M E M O R A N D U M

Carlisle Indian School.
Bequest of Annie E. Peale.

The accompanying letter has been modified in accordance with suggestions initialed by the Assistant Secretary. As to Judge Wetzel's interest in the matter, he has been connected therewith in the capacity of trustee for several years presumably from a personal interest in the affairs of the former Carlisle School. It is suggested that the court will make from the estate such allowance as will defray the cost of suit and compensation to the trustees in case they desire such compensation, which is perhaps doubtful. It is not understood that the Department is availing itself of Judge Wetzel's services as attorney.

EPM

Russ

D-44505

NOTE.

February 26, 1919.

Carlisle Indian School,)
Bequest of Annie E. Peale.)



I agree with the Indian Office that this matter should be submitted to the proper court for judicial construction of this will.

I am inclined to the opinion, however, that we should submit the matter to the Attorney General with request that the Government be represented by his Department. I am not quite clear in what capacity Mr. Wetzel appears in the matter. He was formerly one of the trustees ^{of this fund} ~~under the will~~, and states in his letter of November 26, 1918, that he has always represented the school superintendents in these matters. Are we authorized to accept his services without compensation?

In the letter of the Assistant Commissioner of Indian Affairs, submitted here for approval, he says:

Sch
I do not know that it would be necessary for the Government to be represented by an attorney, unless perhaps the estate should be so represented, as it is not anticipated that an appeal would be taken from the decision of the court.

I am inclined to the opinion that the Government should be represented by an attorney and am strongly convinced we should not now say that an appeal will not be taken.

D-44505

Possibly the Indian Office is in possession of information which justifies the statement ~~corrected~~ ~~corrected~~ in the Assistant Commissioner's letter.

WLP

826
Gordon

25/1

WLP

Copy.

Ed-Sch.
94966-18
R H H

FEB 12 1919

Hon. J. W. Wetzel,
20 South Hanover Street, Pa
Carlisle, Pa.

Sir:

Though the matter of the Annie E. Peale legacy to the Carlisle School has been delayed somewhat in this Office pending some consideration of the law involved, as well as the facts, it is now inclined to agree with your contention that there is a reasonable doubt as to the proper disposition of this trust. There is a doubt whether the trust fails with the abandonment of the Carlisle School, thereby entitling the estate to these moneys, or whether it may still be applied at another Indian school under the doctrine of cy pres.

Under the circumstances it is thought your suggestion should be adopted, viz., that application be made to the Orphans' Court for a judicial determination of the question and that such application may properly be made by the trustees. Claude V. Peel is at present detailed to the Chilocco Indian School, Chilocco, Oklahoma, and John Francis, Jr., whose army service is not at hand, is now assigned to the Schuylkill Arsenal, Philadelphia, Pa.

I do not know that it would be necessary for the Government to be represented by an attorney, unless perhaps the estate should be so represented, as it is not anticipated that an appeal would be taken from the decision of the Court. I shall be glad to receive your further advice as to any action begun.

Respectfully,

1-WC-31

(Signed) E.B. Meritt.

Approved:

Assistant Commissioner.

Assistant Secretary.

Ed-Sch.
94966-18
R H H

FEB 12 1919

Hon. J. W. Wetzel,
20 South Hanover Street,
Carlisle, Pa.

Sir:

Though the matter of the Annie E. Peale legacy to the Carlisle School has been delayed somewhat in this Office pending some consideration of the law involved, as well as the facts, it is now inclined to agree with your contention that there is a reasonable doubt as to the proper disposition of this trust. There is a doubt whether the trust fails with the abandonment of the Carlisle School, thereby entitling the estate to these moneys, or whether it may still be applied at another Indian School under the doctrine of cy pres.

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I do not know that it would be necessary for the Government to be represented by an attorney, unless perhaps the estate should be so represented, as it is not anticipated that an appeal would be taken from the decision of the Court. I shall be glad to receive your further advice as to any action begun.

Respectfully,



1-WC-31

E. B. Merrill
Assistant Commissioner.

Approved:

X

Assistant Secretary.

5-1100

ADDRESS ONLY THE
COMMISSIONER OF INDIAN AFFAIRS

REFER IN REPLY TO THE FOLLOWING:

Ed-Sch.
94966-18
R H H

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

WASHINGTON

FEB 12 1919

Hon. J. W. Wetzel,
20 South Hanover Street,
Carlisle, Pa.

Sir:

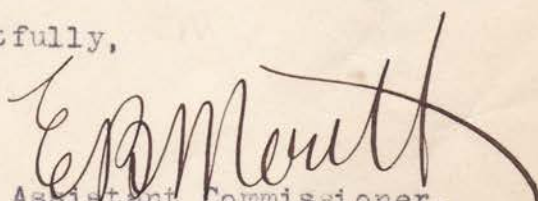
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Under the circumstances it is thought your suggestion should be adopted, viz., that application be made to the Orphans' Court for a judicial determination of the question and that such application may properly be made by the trustees. Claude V. Peel is at present detailed to the Chilocco Indian School, Chilocco, Oklahoma, and John Francis Jr., whose army service is not at hand, is now assigned to the Schuylkill Arsenal, Philadelphia, Pa.

I do not know that it would be necessary for the Government to be represented by an attorney, unless perhaps the estate should be so represented, as it is not anticipated that an appeal would be taken from the decision of the Court. I shall be glad to receive your further advice as to any action begun.

Respectfully,

1-WC-31


Assistant Commissioner.

Approved:


Assistant Secretary.

Ed-Sch.
94966-18
R H H

FEB 12 1919

Hon. J. W. Wetzel,
20 South Hanover Street,
Carlisle, Pa.

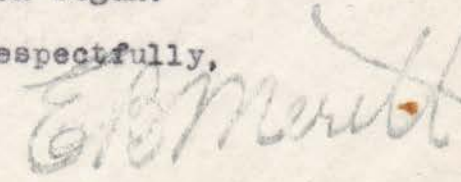
Sir:

Though the matter of the Annie E. Peale legacy to the Carlisle School has been delayed somewhat in this Office pending some consideration of the law involved, as well as the facts, it is now inclined to agree with your contention that there is a reasonable doubt as to the proper disposition of this trust. There is a doubt whether the trust fails with the abandonment of the Carlisle School, thereby entitling the estate to these moneys, or whether it may still be applied at another Indian School under the doctrine of cy pres.

Under the circumstances it is thought your suggestion should be adopted, viz., that application be made to the Orphans' Court for a judicial determination of the question and that such application may properly be made by the trustees. Claude V. Peel is at present detailed to the Chilocco Indian School, Chilocco, Oklahoma, and John Francis Jr., whose army service is not at hand, is now assigned to the Schuylkill Arsenal, Philadelphia, Pa.

I do not know that it would be necessary for the Government to be represented by an attorney, unless perhaps the estate should be so represented, as it is not anticipated that an appeal would be taken from the decision of the Court. I shall be glad to receive your further advice as to any action begun.

Respectfully,



Assistant Commissioner.

1-WC-31

Approved:



Assistant Secretary.

INITIALING COPY - FOR FILE

LAW OFFICES OF
J. W. WETZEL
20 S. HANOVER STREET
CARLISLE, PA.

November 26.



Hon. Cato Sells,
Commissioner of Indian Bureau,
Washington, D. C.

Dear Judge:-

Possibly you have been made aware, that there was bequeathed to the Carlisle Industrial School, a number of years ago, a legacy, by Annie E. Peale, of Philadelphia, Pa., to certain trustees, for the maintenance and education of Indian girls, at said School. The trustees of this fund, were John Lindner, W. A. Mercer and myself. Subsequently, Mr. Freedman was substituted for Major Mercer, and later, Mr. Freedman and myself resigned, and there was substituted for us, John Francis, Jr., and Claude T. Peel.

The abolition of the Indian School raises a question, as to whether this trust has not been dissolved, and to whom the funds now belong. Before Mr. Peel left Carlisle, we had an interview, with regard to the several legacies, left to the School, and I recall, that I advised him, that the Martin & Ropes legacies, were directly to the School, and were properly convertible into the Treasury of the United States, but that a serious question arose, with regard to the Annie E. Peale legacy. A scrutiny of the words of the will, makes it doubtful, if the funds could be diverted to any other Indian School. If I properly assume, that the Indian School, at Carlisle, will not be revived, and is permanently abolished, then I think, the proper thing to do, is to have the trustees file an account of the trust in our Orphans Court, which has jurisdiction, and have a judicial determination, whether the funds shall go to the next of kin, or if under the doctrine of cy pres, can be transferred to a similar use, at some other Institution.

In your reply, would you kindly send me the P.O. addresses of Jno. Francis, Jr., recent Supt. of the School, and Claude T. Peel, late Chief Clerk, so that I can have them join in the account to the Court, and if essential, have substitutes in their stead. I have always represented the School Superintendents in these matters, and therefore, my interest in the same.

Yours truly,

J. W. Wetzel



DEPARTMENT OF THE INTERIOR

UNITED STATES INDIAN SCHOOL

CARLISLE, PA.

August 2, 1918.

Honorable Cato Sells,
Commissioner of Indian Affairs,
Washington, D. C.

My dear Mr. Sells:

There is a legacy left to this school known as the "Anna E. Peale legacy trust fund", of which John Francis, Jr., John Lindner of Carlisle, Pa., and I are the trustees. The principal amounts to \$2900 and is invested in a mortgage. The interest only is to be used for the further education of Carlisle Indian girls in the normal schools and at present there is a balance of \$289.06 on hand.

There are in my possession six \$1000 railroad bonds which were purchased from the funds of the Ropes Bequest. The interest from these bonds, as per instructions from the Office, is being deposited to the credit of the United States as Miscellaneous Receipts Class 4. I was informed this bequest was made merely to the school and can be used for any purpose.

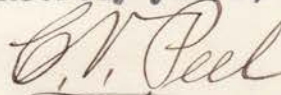
I suggest that you select three responsible persons in your Office and recommend to Judge S. B. Sadler of Carlisle, Pa., that they be appointed trustees of the Anna E. Peale bequest and that you also make these three persons trustees of the Ropes Bequest.

Judge John W. Wetzel of Carlisle, who formerly was a trustee of both of these funds can give you any further information you may desire in regard to them and can act as your attorney in making the transfer should you desire it.

As there are a number of Carlisle Indian girls in Philadelphia who are seeking further education, this money would come in very handy in assisting them.

This matter is merely brought to your attention in order that you may take such action as you deem proper in the premises.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "C. V. Peel".

Trav. Aud. in Chge.

P/S



DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SCHOOL

CARLISLE, PA.

September 1, 1916



The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Sir:

FILED BY C. P. F.

I am in receipt of Office telegram, dated
September 1st, as follows:

"Forward immediately exact language Bradford
Wood bequest.
Meritt."

39 Start
987
\$1,000
appropriated
in 1918
approp. act.

In compliance with this request, I am forwarding
herewith all the correspondence on file in this office,
relative to the bequest of Bradford R. Wood, deceased,
and call attention to letter dated March 24, 1915, of
Randall J. LeBoeuf, in which he states, in regard to the
language of the bequest, that the will contains the follow-
ing provisions in reference to the Carlisle Indian School:

"I give, devise and bequeath the sum of One
Thousand Dollars (\$1,000) each, to the follow-
ing named Churches and Institutions:
"(7) The Carlisle Indian Industrial School of
Carlisle, Pa."

Very respectfully,

O. H. Lipps
Superintendent.

OHL:SR

Encl.

Day

Western Union

September 1, 1916.

Lipps, Superintendent,
Carlisle, Pennsylvania.

Forward immediately exact language Bradford Wood bequest.

FILED BY C. P. F.

E. B. Meritt

Assistant Commissioner.

Ed-Schools
78616-1916
R H H

9-EO-1

INITIALING COPY - FOR FILE.

MEMORANDUM

FILED BY G. P. F.

The accompanying item is to enable the Bradford R. Wood bequest of \$1,000 to be available for the use of the Carlisle Indian School to which it was given. The Superintendent desires to use this money in paying the tuition of deserving Indian students who graduate at the school and to aid them in extending their education. Last year five of their girls attended the State Normal School at West Chester, Pennsylvania. These girls are poor girls and have been earning their board by working in families under the Outing system. Their tuition has been paid from a small trust fund belonging to the school.

~~Provided,~~ That the sum of one thousand dollars,
bequeathed to the Carlisle Indian Industrial School
under the will of Bradford F. Wood, late of Albany, New
York, and deposited in the Treasury of the United States,
is hereby appropriated and shall remain available until
expended for the purpose of assisting needy graduates
from the Carlisle Indian School in extending their educa-
tion.

FILED BY C. P. F.

RAP

H

* * * Provided also, That the sum of one thousand dollars, bequeathed to the Carlisle Indian Industrial School under the last will and testament of Bradford R. Wood, late of Albany, New York, and deposited to the credit of the United States March 18, 1916, be and the same is hereby appropriated for the use of the Carlisle Indian School, said sum to remain available until expended. This money is to be used in paying the tuition of poor, deserving Indian students who graduate at the Carlisle School to aid them in extending their education. The Superintendent has been paying their tuition and purchasing books from a small trust fund belonging to the school, of which he is one of the trustees.

BY C. P. F.



DEPARTMENT OF THE INTERIOR
OFFICE COMMISSIONER OF INDIAN AFFAIRS
WASHINGTON

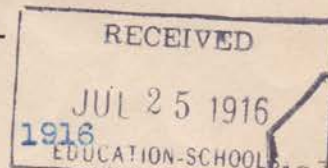






DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SCHOOL
CARLISLE, PA.

July 19, 1916



The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Sir:

As the Office is probably now preparing the estimates for the fiscal year ending June 30, 1918, I desire to call attention to the fact that under the terms of the last will and testament of Mr. Bradford R. Wood, deceased, the Carlisle Indian School was bequeathed the sum of \$1,000. By direction of the Department, I accepted a draft for \$1,000, covering this bequest, and deposited it to the credit of the United States, certificate No. 4391, dated March 18, 1916.

As I understand this matter, it would be necessary for Congress to authorize the withdrawal of this money from the Treasury in order that the Carlisle school may get the benefit of it. I, therefore, respectfully request that an item be inserted in the appropriation bill, providing that the \$1,000 bequeathed to the Carlisle Indian Industrial School by Mr. Bradford R. Wood, deceased, of Albany, N. Y., be appropriated for the use of the Carlisle School, and that the same remain available until expended.

It is my intention to use this money in paying the

tuition of deserving Indian students who graduate at this school, to aid them in extending their education. Last year, we had five of our girls attending the State Normal school at West Chester, Pennsylvania. These girls are poor girls and have been earning their board by working in families under the Outing System. I have been paying their tuition and purchasing their books from a small trust fund belonging to the school, of which I am one of the trustees appointed by the Court. In the same manner I desire to use this \$1,000, and would thank the Office to draw up an item to be included in the next appropriation bill that will cover the situation.

Very respectfully,

OHL:SR


Superintendent.

July 19, 1916

The Honorable
Commissioner of Indian Affairs,
Washington, D. C.



Sir:

As the Office is probably now preparing the estimates for the fiscal year ending June 30, 1918, I desire to call attention to the fact that under the terms of the last will and testament of Mr. Bradford R. Wood, deceased, the Carlisle Indian School was bequeathed the sum of \$1,000. By direction of the Department, I accepted a draft for \$1,000, covering this bequest, and deposited it to the credit of the United States, certificate No. 4501 dated March 18, 1916.

As I understand this matter, it would be necessary for Congress to authorize the withdrawal of this money from Treasury in order that the Carlisle school may get the benefit of it. I, therefore, respectfully request that an item be inserted in the appropriation bill, providing that the \$1,000 bequeathed to the Carlisle Indian Industrial School by Mr. Bradford R. Wood, deceased, of Albany, N. Y., be appropriated for the use of the Carlisle School, and that the same remain available until expended.

It is my intention to use this money in paying the

tuition of deserving Indian students who graduate at this school, to aid them in extending their education. Last year, we had five of our girls attending the State Normal School at West Chester, Pennsylvania. These girls are poor girls and have been earning their board by working in families under the Outing System. I have been paying their tuition and purchasing their books from a small trust fund belonging to the school, of which I am one of the trustees appointed by the Court. In the same manner I desire to use this \$1,000, and would thank the Office to draw up an item to be included in the next appropriation bill that will cover the situation.

Very respectfully,

OHL:SR

Superintendent.

42918-15 DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

WASHINGTON

APR 22 1915

Mr. O. H. Lipps,
Supervisor in Charge,
Carlisle Indian School.

My dear Mr. Lipps:-

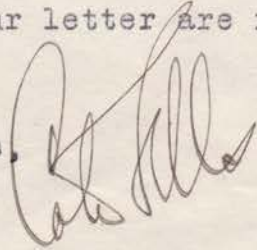
I have your letters of April 2 and 14, transmitting correspondence in regard to a bequest made the Carlisle Indian School by Mr. Bradford R. Wood, deceased, formerly of New York State, and asking to be advised as to authority of law in the matter.

It will not be necessary to pass on the legal question involved in this particular instance for the reason that although similar bequests have been received heretofore for the school, it is now deemed inadvisable to accept them. All Government Indian Schools are provided for by Congress.

It is believed that the bequest in question should be allowed to lapse into the residue of the decedent's estate. You are therefore authorized and directed to decline this bequest on behalf of the Carlisle Indian School.

The papers which accompanied your letter are returned herewith.

Sincerely yours,


Commissioner.

Please return to the Carlisle Indian School.

8893

March 18, 1915.

Mr. Randall J. LeBoeuf,
Attorney & Counsellor at Law,
Albany Trust Company Bldg.,
Albany, N. Y.

Dear Sir:



I am in receipt of your letter dated March 8, 1915, in which you advise that under the terms of the Last Will and Testament of Bradford R. Wood, deceased, The Carlisle Indian Industrial School of Carlisle, Pa., is bequeathed the sum of \$1000. You enclosed with your letter a release and waiver to be executed by the authorities of the Carlisle School and the form indicates that you are under the impression that this school is a corporation operating under the laws of Pennsylvania. For your information I will state that the Carlisle Indian Industrial School is an institution owned and supported by the United States Government. At present I am the bonded official in charge of the school. Any funds coming to the institution, from any source whatever, are accounted for by me under my official bond. I am, therefore, returning herewith the release and waiver in order that you may change the affidavit on the bottom thereof to conform to the correct status of the institution. The institution has a seal but it is of no legal effect. A copy of the seal will be found at the bottom of this letter. The institution has no Board of Directors but by virtue of my office, I am an-

power^{re} to receipt for any funds coming to the institution, which funds are deposited in the United States Treasury to the credit of the institution. With this information, you will no doubt be able to change the affidavit to meet these conditions.

I would thank you to advise me as to the language of the bequest as I would like to know what restrictions, if any, are imposed or whether or not it was the desire of the testator to confine the use of the bequest to any particular purpose other than for the general welfare of the institution.

Very respectfully,

A. H. Hips
Supervisor in Charge.

OHL:LG

RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.



March 9th. 1915.

The Carlisle Indian Industrial School,
Carlisle, Pa.



In Re Estate of Bradford R. Wood, deceased.

Gentlemen:-

Under the terms of the Last Will and Testament of Bradford R. Wood, deceased, The Carlisle Indian Industrial School of Carlisle, Pa., is bequeathed the sum of \$1,000.

The Albany Trust Company, Executor of this Will is making preparation to account in this estate and pay the several legacies named in the Will.

I am enclosing herewith release to be executed by the officers authorized so to do, and ask that the same be returned to me at your earliest convenience.

I would also ask that you furnish me with a certified copy of your Charter or Certificate of Incorporation, certified by the Secretary of State or other proper public officer. Upon receipt of the same, the Executor will file his account and make payment pursuant to the order of the Surrogate.

Yours very truly,

Dict. by Mr. Schenck

LER

8893

March 26, 1915.

Hon. Randall J. LeBoeuf,
The Albany Trust Bldg.,
Albany, N. Y.



Dear Sir:

Replying to your letter of March 24th in regard to the bequest of Bradford R. Wood, deceased, to the Carlisle Indian Industrial School, of the sum of \$1,000, I have to advise that there is no Federal law relating to bequests of this nature, but there is no law prohibiting this school from accepting such bequests. In fact, we now have two funds, which are derived from bequests of friends of the School, one of which is accounted for me as a disbursing officer of the Government; the other, in accordance with the terms of the bequest, is administered by trustees appointed by the local Court.



Inasmuch as you are anxious to close this matter, if you so desire, you may remit to me the amount of the bequest, and I will execute any form of receipt or waiver that may be necessary to meet the requirements of your Probate Court. The money will then be deposited to the credit of the school with the United States Treasurer and handled in the same manner as the funds derived from the other bequest herein referred to. If this is not satisfactory, I will be glad

~~REPORT ON VOCATIONAL COURSES IN AGRICULTURE~~

Hon. R. J. L.....#3.

to refer the matter to the office of Indian Affairs, at
Washington, D. C., for further information.

Very respectfully,

OHL:SR

A. H. Lipp
Supervisor in Charge.

RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

March 24th. 1915.

O. H. Lipes, Esq.,

Supervisor in Charge, U. S. Indian School,
Carlisle, Pa.

Dear Sir:-

I have your letter of March 18th. in regard to the bequest of the sum of \$1,000 to the Carlisle Indian Industrial School of Carlisle, Pa., by the terms of the Last Will and Testament of Bradford R. Wood, deceased.

Will you be good enough to furnish me with authority that vests in the Federal Government the right to receive a bequest for the institution of which you are in charge. The Executor, is of course anxious to carry out the provisions of the Will and the intent of the Testator. For its protection however, I would request this information.

It is possible that other bequests have been made by decedents whose Wills were admitted to probate in the State of New York. In such a case this question may have arisen. In any event your Counsel or the legal advisor of the institution would probably be able to give us this information.

In regard to the language of the bequest, would state that the Will contains the following provisions in reference thereto:

"I give, devise and bequeath the sum of One Thousand Dollars (\$1,000) each, to the following named Churches and Institutions:

(7) The Carlisle Indian Industrial School of Carlisle, Pa."



M. Lipes -2-

You will see therefore that this is a simple bequest without restrictions of any sort.

Your early consideration of this matter would be appreciated as the Executor is anxious to file its account and make payment of these various bequests.

Very truly yours,

Randall J. La Bouef

Dict. by Mr. Schenck;

LER

RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

March 31st. 1915.

O. H. Lipes, Esq.,
U. S. Indian School,
Carlisle, Pa.



Dear Sir:-

Re Estate of Bradford R. Wood, deceased

I have yours of March 26th.

It has been generally held in this state that only natural persons and corporations legally incorporated may accept a bequest, and that testamentary bequests to unincorporated societies and institutions are invalid.

In the case of a bequest to the United States we would require some authority on the part of the government to accept the same. Our Court of Appeals has held that a devise of real property to the United States is not valid as the government have no authority to take. Your department however, through its legal advisers may be very familiar with this question and can furnish the Trustee with sufficient authority to warrant the Executor paying this legacy. I would therefore ask that you take the matter up as suggested in your letter, with the office of Indian Affairs at Washington.

I would very much like to receive this information at an early moment in order that the Executor may have its accounts passed.

Very truly yours,

Randall J. Le Boeuf
R.

Dict. by Mr. Schenck;

LER

RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

April 12th. 1915.

O. H. Lipes, Esq.,
U. S. Indian School,
Carlisle, Pa.



Dear Sir:- Re Estate of Bradford R. Wood, deceased

Will you kindly advise me as to whether or not you have had any ruling from the office of Indian Affairs of the Department of the Interior in regard to the legacy to the Carlisle Indian Industrial School, of \$1,000 under the terms of the Last Will and Testament of Bradford R. Wood.

The Surrogate has suggested that we might cite the proper officers to appear on the accounting for the purpose of protecting the government's interest.

This will of course cause some delay but I am inclined to think that this will be the course you will be obliged to pursue.



Very truly yours,

Randall J. Le Boeuf

Dict. by Mr. Schenck;

LER

8893

April 23, 1915.

Mr. Randall J. LeBoeuf,
Attorney and Counsellor at Law,
Albany Trust Company Bldg.,
Albany, N. Y.

Dear Sir:

In further reference to the matter of the bequest in the sum of \$1,000 to the Carlisle Indian Industrial School under the terms of the last will and testament of Bradford R. Wood, deceased, I am enclosing herewith copy of a letter from the Commissioner of Indian Affairs for your information.

Very respectfully,

OHL:SR

Supervisor in Charge.



RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

4893

April 15th. 1915.

O. H. Lipps, Esq.,
U. S. Indian School,
Carlisle, Pa.



Re Estate of Bradford R. Wood, deceased

Dear Sir:-

I have yours of April 14th. and note that you have requested the Commission of Indian Affairs to make a special matter of the bequest under the Will of Bradford R. Wood.

It will probably be advisable for us in any event to cite the proper authorities to appear on the final accounting of the Executor.

Very truly yours,

Randall J. Le Boeuf
R.

Dict. by Mr. Schenck;

LER

April 14, 1915.

Hon. Cato Sells,
Commissioner of Indian Affairs,
Washington, D. C.



My dear Mr. Sells:

I enclose herewith another letter just received from Mr. Randall J. LeBoeuf, Attorney and Counsellor At Law, Albany, N. Y., in reference to the legacy to the Carlisle Indian Industrial School of \$1,000 bequeathed under the terms of the last will and testament of Bradford R. Wood.

Several days ago I forwarded to the Office the correspondence in this case, and I now ask that this matter be made special and that the attorney be advised as soon as possible as to whether or not this school, being a Government Institution, can accept a legacy of this nature. Mr. LeBoeuf states that the laws of New York prohibit any citizen thereof making a bequest to an institution supported by the Government or by public funds.

If this legacy can be accepted by the school it could be used to good advantage in aiding ambitious Indian students, who desire to continue their education after finishing one of the courses at Carlisle. Several of our more ambitious boys and girls would like to do this, and I should like very much to be in a position to render them some assistance by way of

The Commissioner of Indian Affairs -2-

encouragement.

Please have this matter made special and advise me as soon as possible what steps you recommend should be taken.

Very respectfully,

OHL:SR

Supervior in Charge.

COPY

April 12, 1915.

O. H. Lipps, Esq.,
U. S. Indian School,
Carlisle, Pa.

Re Estate of Bradford R. Wood, deceased.

Dear Sir:-

Will you kindly advise me as to whether or not you have had any ruling from the office of Indian Affairs of the Department of the Interior in regard to the legacy to the Carlisle Indian Industrial School, of \$1,000 under the terms of the Last Will and Testament of Bradford R. Wood.

The Surrogate has suggested that we might cite the proper officers to appear on the accounting for the purpose of protecting the government's interest.

This will of course cause some delay but I am inclined to think that this will be the course you will be obliged to pursue.

Very truly yours,

Randall L. LeBoeuf

Albany, N.Y.



4893
April 14, 1915.

Randall J. LeBoeuf, Esq.,
Attorney and Counsellor At Law,
Albany, N. Y.

My dear Mr. LeBoeuf:

Replying to your letter of April 13th, I am enclosing herewith copy of a personal letter I have just written to the Commissioner of Indian Affairs, asking that this matter be made special, and that you be advised as soon as possible as to the attitude of the Indian Office. If you deem it advisable you might have the Court cite me to appear on the accounting for the purpose of protecting the Government's interests, and I will endeavor to respond.

Very respectfully,

OHL:SR

Supervisor in Charge.



RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

April 28th. 1915.



O. H. Lipps, Esq.,

Supervisor in Charge, Indian Industrial School,

Carlisle, Pa.

Re Estate of Bradford R. Wood, deceased

Dear Sir:-

I am in receipt of your letter of April 23rd.
1915, with enclosure of copy of letter from the Commissioner
of Indian Affairs, for which I thank you.

I understand from the nature of the letter that
it is your intention to decline to accept the bequest made
by Bradford R. Wood on behalf of Carlisle Indian School,
and will so advise the Surrogate of this County.

Very truly yours,

A handwritten signature in cursive script, reading "Randall J. Le Boeuf", written over the typed name.

R.

*The other
Correspondence in
Indian Affairs letter file.*

9358

May 17, 1915.

Mr. Randall J. LeBoeuf,
The Albany Trust Bldg.,
Albany, N. Y.

Sir:

In further reference to the matter of the bequest of Mr. Bradford R. Wood, deceased, to the Carlisle Indian Training School, I am in receipt of the following telegram from the Commissioner of Indian Affairs:

"Lippe, Supervisor, Carlisle, Pa.
Office letter April 22nd. If you have written New York authorities declining bequest in will of Bradford R. Wood, recall your letter and await further instructions.

Sells, Commissioner."

Please advise me as to the present status of this matter.

Very respectfully,

OHL:SR

Supervisor in Charge.

POSTAL TELEGRAPH-CABLE COMPANY

NIGHT LETTERGRAM



THE POSTAL TELEGRAPH-CABLE COMPANY (INCORPORATED) TRANSMITS AND DELIVERS THIS NIGHT LETTERGRAM SUBJECT TO THE TERMS AND CONDITIONS PRINTED ON THE BACK OF THIS BLANK.

CLARENCE H. MACKAY, PRESIDENT.

RECEIVED AT

DELIVERY NUMBER

INDEPENDENT COMPETITIVE PROGRESSIVE

4-383

9pvf 32 govt night 735pm

Washington Dc May 15;15

Lipps,

Supervisor Carlisle Pa.

office letter april twenty second if you have written newyork
authorities declining bequest in Will of Bradford R Wood
recall your letter and await further instructions.

Sills

Commissioner..

POSTAL TELEGRAPH-CABLE COMPANY IN CONNECTION WITH THE COMMERCIAL CABLE COMPANY



THE GREATEST TELEGRAPH AND CABLE SYSTEM IN THE WORLD.

EXTENDS OVER TWO-THIRDS OF THE WAY AROUND THE EARTH.

THE POSTAL TELEGRAPH-CABLE COMPANY (INCORPORATED)

TRANSMITS AND DELIVERS THE WITHIN NIGHT LETTERGRAM SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

The Company will receive, not later than midnight, NIGHT LETTERGRAMS, written in plain English, to be transmitted only for delivery not earlier than the morning of the next ensuing business day, at rates as follows: The standard day rate for a ten-word day message shall be charged for the transmission of a NIGHT LETTERGRAM containing fifty words or less, and one-fifth of the standard day rate for a ten-word day message shall be charged for each additional ten words or less in such NIGHT LETTERGRAM.

To guard against mistakes or delays the sender of a NIGHT LETTERGRAM should order it REPEATED that is, telegraphed back to the originating office for comparison. For this, one-half the un-repeated NIGHT LETTERGRAM rate is charged in addition. Unless otherwise indicated on the face of this blank THIS IS AN UNREPEATED NIGHT LETTERGRAM, AND IS PAID FOR OR AGREED TO BE PAID FOR AS SUCH in consideration whereof it is agreed between the sender of the NIGHT LETTERGRAM and this Company as follows:

1. The Company shall not be liable for mistakes or delays in the transmission or delivery, or for non-delivery, of any UNREPEATED NIGHT LETTERGRAM beyond the amount received for sending the same; nor for mistakes or delays in the transmission or delivery, or for non-delivery, of any REPEATED NIGHT LETTERGRAM beyond fifty times the sum received for sending the same, UNLESS SPECIALLY VALED AND INSURED in which case, conditions 2 to 8, given below, shall apply to such repeated message; nor in any case for delays arising from unavoidable interruption in the working of the lines; nor for errors in obscure Night Lettergrams.

2. Correctness in the transmission of NIGHT LETTERGRAMS to a point on the lines of the Company can be INSURED by contract in writing, stating agreed amount of risk, and payment of premium thereon, at the following rates; in addition to the usual charge for REPEATED NIGHT LETTERGRAMS, viz: one per cent for any distance not exceeding 1000 miles and two per cent for any greater distance.

3. This Company is hereby made the agent of the sender, without liability, to forward this NIGHT LETTERGRAM over the lines of any other company when necessary to reach its destination.

4. NIGHT LETTERGRAMS will be delivered free within one-half mile of the Company's office in towns of 5,000 population or less, and within one mile of such office in other cities or towns. Beyond these limits the Company does not undertake to make delivery, but will, without liability, at the sender's request, as his agent and at his expense, endeavor to contract for him for such delivery at a reasonable price.

5. No responsibility attaches to this Company concerning NIGHT LETTERGRAMS until the same are accepted at one of its transmitting offices, and if such a NIGHT LETTERGRAM is sent to such office by one of the Company's messengers, the latter acts for that purpose as the agent of the sender.

6. The Company shall not be liable for damages or statutory penalties in any case where the claim is not presented in writing within thirty days after the NIGHT LETTERGRAM is filed with the Company for transmission.

In further consideration of the reduced rate for this special "NIGHT LETTERGRAM" service, the following special terms are hereby agreed to:
A. NIGHT LETTERGRAMS may at the option of the Telegraph Company be mailed at destination to the addressee, and the Company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such NIGHT LETTERGRAM at destination, postage prepaid.

B. NIGHT LETTERGRAMS shall be written in plain English. Cipher or code language is not permitted.

7. The above terms and conditions shall be binding upon the receiver, as well as the sender of this NIGHT LETTERGRAM.

8. No employee of the Company is authorized to vary the foregoing.

This is an UNREPEATED NIGHT LETTERGRAM and is transmitted and delivered by request of the sender under the conditions named above. Errors can be guarded against only by repeating the NIGHT LETTERGRAM back to the sending station for comparison.

CHARLES C. ADAMS, SECOND VICE-PREST.

CLARENCE H. MACKAY, PRESIDENT
EDWARD J. NALLY, VICE-PREST. AND GENERAL MANAGER

CHARLES P. BRUCH, THIRD VICE-PREST.

POSTAL TELEGRAPH - FASTEST SERVICE IN THE WORLD

Ed-Schools
38707-1915
126837-1915
R H H

Mr. O. H. Lipps,
Superintendent, Carlisle Indian School,
Carlisle, Pa.

Dear Mr. Lipps:

There is enclosed a check dated November 15, 1915, No. 3339, drawn upon The Albany Trust Company in favor of the Carlisle Indian Industrial School in the sum of one thousand dollars. You are directed to properly endorse this check and receipt therefor to The Albany Trust Company on the attached coupon. The proceeds of the check should be taken up in your cash account and deposited to the credit of the Treasurer of the United States, as "Miscellaneous Receipts, Class I".

You will understand that this bequest, although nominally to the Carlisle Industrial School, is regarded as a bequest made to the United States, and while it may not be declined by Executive officers, on the other hand there is no authority of law for use by the Carlisle School or the Interior Department of the money without appropriation by Congress.

Cordially yours,

Assistant Secretary.

12-LP-3
Enclosure 9963

FILED BY D. B. S.

Ed.-Schools.
38707-1915.
126827-1915.
R H H

Dear Mr. Attorney General:

This is to acknowledge receipt of your letter without date (CW - JFD 176226-3) inclosing a check dated November 15, 1915, No. 2339, drawn upon the Albany Trust Company in favor of the Carlisle Indian Industrial School in the sum of \$1000.00, this check being in settlement of a bequest made under the will of Mr. Bradford R. Wood to the Carlisle Indian School.

Cordially yours,

Inclosure 9961.

Assistant Secretary.

11-MFL-27

The Honorable,

The Attorney General.

INITIALING COPY - FOR FILE

To Secretary

To Secretary DEC 12 1915

DEC 14 1915 For signature

For signature

Ed-Schools
45305--15
126827-15
R H H

DEC 13 1915

My dear Mr. Secretary:

Recently a bequest was made of the sum of \$1,000 to the Carlisle Indian Industrial School under the will of Bradford R. Wood, late of Albany, New York. The matter having been presented to the Department for consideration, it was pointed out that the Secretary of the Interior and the Commissioner of Indian Affairs are without authority to reject this bequest. It appears, however, that there is not authority for the use of this money until proper authority therefor has been given by Congress.

Thereupon the Government was duly represented by the Assistant Attorney General at the hearing before the Surrogate's Court at Albany on May 21, 1915. A check in payment of this bequest has now been received and I am submitting herewith a letter of acknowledgment to the Attorney General and a letter to the Superintendent of the Carlisle Indian School, directing him to endorse the check and take it up in his cash account as

INITIALING COPY - FOR FILE

"Miscellaneous Receipts, Class 1."

In this connection, however, I deem it proper to invite your attention to the decisions of the Comptroller of June 3, 1915, and June 23, 1915, which decisions are with the file which I am enclosing for your convenience. In the decision of June 3 the Comptroller passed upon a donation in the sum of \$500 by C. E. Mills, a white citizen of the State of Arizona, towards certain road improvements on the San Carlos Indian Reservation and said, in part:

If the donor desires to turn the money over to the Indian agent as his representative to disburse and apply it to the purpose for which it is donated, I see no legal objection to such procedure, provided it has the administrative approval of your Department and can be followed without imposing any obligation upon the United States.

Your submission does not indicate to whose order the check is payable. If it is payable to the United States it should be rejected and returned to the donor. The United States is not the beneficiary of the donation, and should not assume any responsibility in connection with the receipt, custody, or application of the money.

In his decision of June 23 he reconsidered this matter and said, in part:

My decision of June 3, 1915, was based upon the assumption that the check was payable to the United States. If that were true it could not be

accepted, nor would the United States in that instance assume any responsibility in connection with its receipt. But upon the facts herein stated, that the check is payable to the San Carlos Agency, to be used for certain road improvements, I know of no reason why it should not be accepted as a donation to the Indians, and the money expended for the purpose for which the donation was made and accounted for in the manner provided in the act of July 1, 1898 (30 Stat., 595).

Very truly yours,

(Signed) E. B. Meritt
Assistant Commissioner.

The Honorable,

The Secretary of the Interior.

13-LP-9.

Ed-Schools
38707-1915
126827-1915
R H H

DEC 17 1915

W A
Mr. O. H. Lipps,
Superintendent, Carlisle Indian School,
Carlisle, Pa.

Dear Mr. Lipps:

FILED BY C. P. F.

There is enclosed a check dated November 15, 1915, No. 2339, drawn upon The Albany Trust Company in favor of the Carlisle Indian Industrial School in the sum of one thousand dollars. You are directed to properly endorse this check and receipt therefor to The Albany Trust Company on the attached coupon. The proceeds of the check should be taken up in your cash account and deposited to the credit of the Treasurer of the United States, as "Miscellaneous Receipts, Class I".

You will understand that this bequest, although nominally to the Carlisle Industrial School, is regarded as a bequest made to the United States, and while it may not be declined by Executive officers, on the other hand there is no authority of law for use by the Carlisle School or the Interior Department of the money without appropriation by Congress.

Cordially yours,

(Signed) Bo Sweeney.

Assistant Secretary

12-LP-3
Enclosure 9963

DEC 18 1915

For signature

INITIALING COPY - FOR FILE

DEC 17 1915

Dear Mr. Attorney General:

W6P
FOR FILE
FILED BY C. P. F.
This is to acknowledge receipt of your letter without date (CW - JFD 176226-3) inclosing a check dated November 15, 1915, No. 2339, drawn upon the Albany Trust Company in favor of the Carlisle Indian Industrial School in the sum of \$1000.00, this check being in settlement of a bequest made under the will of Mr. Bradford R. Wood to the Carlisle Indian School.

Cordially yours,

(Signed) Bo Sweeney.

Inclosure 9961.

Assistant Secretary.

The Honorable,

The Attorney General.

FILED BY E. S. S.

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE,
WASHINGTON, D. C.

JFD-LJB

CW *JFD*

176226-3

The Honorable

The Secretary of the Interior.

S I R :

Referring to your letter of May 20th, 1915,
relative to the bequest of \$1,000 made to the Carlisle
Indian School, under the will of Mr. Bradford R. Wood,
late of Albany, N. Y., I have the honor to enclose here-
with a check, transmitted to this Department by the
United States Attorney at Albany for \$1,000, dated Nov.
15th, 1915, and payable to the order of Carlisle Indian
Industrial School, executed by The Albany Trust Company,
executor of the will in question.

Kindly acknowledge receipt of this check.

Respectfully,

For the Attorney General

Charles W. Wane

Assistant Attorney General.

check
Enclosure 61636.

Ch \$1000.00



5-1
Carlisle
General

ADDRESS REPLY TO
"THE ATTORNEY GENERAL"
AND REFER TO
INITIALS AND NUMBER

5

DEPARTMENT OF JUSTICE,
WASHINGTON, D. C.

176226-1

MAY 24 1915



May 20, 1915.



The Secretary of the Interior.

Sir:

The Department is in receipt of your letter of May 20, 1915, transmitting a letter from the Indian Office relative to a bequest of \$1000 made to the Carlisle Indian School under the will of Bradford R. Wood, and has telegraphed to the United States Attorney at Albany, N.Y., to represent the interests of the United States at the hearing before the Surrogate's Court on May 21st, at 10 o'clock.

Respectfully,

For the Attorney General,

Charles Warren

Assistant Attorney General.

Esch

Ed-Schools
46589-15
R H H

3

FOR FILE

MAY 20 1915

CHH

11 My dear Mr. Attorney General: FILED BY C. P. F.

I am transmitting a letter from the Indian Office relative to a hearing to be held before the Surrogate's Court at Albany, May 21st, at 10 A. M., and will request that the United States Attorney be directed to represent the interests of the Government in the matter of the will of Mr. Bradford R. Wood, as desired.

Cordially yours,

(Signed) P. Sweeney.
Assistant Secretary.

The Attorney General,
Washington, D. C.

Encl. 21507

MAY 20 1915

INITIALING COPY - FOR FILE.

Ed-Schools
46569-15
R H H

MAY 20 1915

56976

1915

71 My dear Mr. Secretary:

FILED BY C. P. F.

Under the will of Mr. Bradford R. Wood, late of Albany, New York, a bequest of \$1000 was made to the Carlisle Indian School. A hearing before the Surrogate has been fixed for May 21st, at Albany, for final settlement of the account of the executor.

This is in effect a bequest to the United States as the Carlisle Indian School is merely one of its agencies in the work of educating the Indians, and the view has been taken that executive officers of the United States have no power to decline acceptance of such bequest. Therefore it did not at first appear that the Government need be personally represented at the hearing, but I am now in receipt of a telegram from the Assistant Commissioner, dated Carlisle, May 20, wherein he says:

7 Feb
Supt. Lipps received today letter from Attorney estate Bradford R Wood relative request to Carlisle Indian School advising hearing executors account will be held Surrogate's Court Albany N Y Friday May twenty first ten o'clock residuary legatees contend bequest has (was) not to their benefit request Department Justice direct U S Attorney appear and represent interests Carlisle School.

INITIALING COPY - FOR FILE.

Under the circumstances it seems essential that the United States be represented at the hearing in order that its interests may not be injuriously affected in any way, and I would request that the United States Attorney be directed to appear at the hearing which is to be held before the Surrogate's Court at 10 o'clock on Friday, May 31st.

Very truly yours,

(Signed) C. F. Hauke

Second Assistant Commissioner

The Secretary of the Interior,

Washington, D. C.

5-LP-20.

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

WESTERN UNION TELEGRAM

NEWCOMB CARLTON, PRESIDENT

GEORGE W. E. ATKINS, VICE-PRESIDENT

BELVIDERE BROOKS, VICE-PRESIDENT

CLASS OF SERVICE	SYMBOL
Day Message	
Day Letter	Blue
Night Message	Nite
Night Letter	N L

If none of these three symbols appears after the check (number of words) this is a day message. Otherwise its character is indicated by the symbol appearing after the check.

RECEIVED AT S. W. COR. 7th & F, N. W.
TELEPHONE MAIN 3288

11W NS 64 COLLECT GOVT RATE

CARLISLE PENNA 831AM MAY 20 1915

COMR INDIAN AFFAIRS

WASHN DC

BUPT LIPPS RECEIVED TODAY LETTER FROM ATTORNEY ESTATE BRADFORD R
WOOD RELATIVE BEQUEST TO CARLISLE INDIAN SCHOOL ADVISING HEARING EXECUTORS
ACCOUNT WILL BE HELD SURROGATES COURT ALBANY NY FRIDAY MAY
TWENTY-FIRST TEN OCLOCK RESIDUARY LEGATEES ^(WAS?) CONTEND BEQUEST HAS NOT TO
THEIR BENEFIT REQUEST DEPARTMENT JUSTICE DIRECT US ATTORNEY APPEAR AND
REPRESENT INTERESTS CARLISLE SCHOOL

MERRITT ASST COMMR

924AM

FILED BY C. P. F.



RANDALL J. LE BOEUF
ATTORNEY & COUNSELLOR AT LAW
THE ALBANY TRUST COMPANY BUILDING
ALBANY, N.Y.

May 19, 1915.

Hon. Cato Sells,
Commissioner of Indian Affairs,

Dept. of the Interior, Washington, D. C.

Dear Sir:- In re Bradford R. Wood, deceased.

As attorney for The Albany Trust Company, the Executor of the Last Will and Testament of Bradford R. Wood, I am in receipt of a letter from Mr. O. H. Lipps, Supervisor in Charge of the Carlisle Indian Industrial School of Carlisle Pa., a copy of which is enclosed herewith.

FILED BY C. P. F.

On April 23d. I received a letter from Mr. Lipps enclosing your letter to him under date of April 22nd. in which you authorized and directed him on behalf of Carlisle Indian Industrial School, to decline a bequest of \$1,000 to that institution. Upon receipt of this information I notified the residuary legatees as to the attitude of your Department, as indicated therein.

Citations have been duly served upon Carlisle Indian Industrial School, Mr. Lipps, Secretary of the Department of the Interior and yourself, returnable before the Surrogate's Court of the County of Albany, on Friday, May 21st. 1915, at ten o'clock A. M. at which time I suggest that Carlisle Indian Industrial School be represented by counsel.

Very truly yours,

Randall J. Le Boeuf

Dict. by Mr. Schenck;

LER
Encl.

COPY.

May 17, 1915.



Mr. Randall J. LeBoeuf,
The Albany Trust Bldg.,
Albany, N. Y.

FILED BY C. P. F.

Sir:-

In further reference to the matter of the bequest of Mr. Bradford R. Wood, deceased, to the Carlisle Indian Training School, I am in receipt of the following telegram from the Commissioner of Indian Affairs:

"Lipps, Supervisor, Carlisle, Pa.
Office letter April 22nd. If you
have written New York authorities de-
clining bequest in will of Bradford
R. Wood, recall your letter and await
further instructions.
Sells, Commissioner."

Please advise me as to the present status of this matter.

Very respectfully,

(signed) O. H. Lipps.

Supervisor in Charge.

QHL:SR

Ed-Schools
46562-1915
A V S

MAY 19 1915

56976
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1915
2

Mr. C. H. Lipps,
Supervisor in Charge,
Carlisle Indian School.

My dear Mr. Lipps:

FILED BY C. P. F.

On April 24 a copy of a notice from the Clerk of the Surrogate's Court of Albany, New York, was received in this Office by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the city of Albany, New York, or their representatives, to appear at court on the 21st day of May, 1915, at 10 o'clock of that day, to attend the final judicial settlement of the accounts of the executor under the will.

The Office wired you May 15 as follows:

Office letter April twenty-second. If you have written New York authorities declining bequest in will of Bradford R. Wood recall your letter and await further instructions.

It will not be necessary for you to appear in person before the Surrogate's Court of New York on May 21. There is no provision of law either specifically authorizing or forbidding the Carlisle Indian

INITIALING COPY - FOR FILE.

School to receive bequests. It is not a corporation or artificial person and has no capacity to receive devises or bequests. It is merely one of the agencies of the United States Government in carrying on its work of educating the Indians. Under the liberal construction of the law given to wills a court would probably hold a bequest to the Carlisle Indian School to be a bequest to the United States for the benefit of the school.

It is found that executive officers of the United States have no power to decline a bequest of this kind. Such power would rest only with Congress.

Very truly yours,

(Signed) Cato Sells

Commissioner.

(Signed) Cato Sells

S-LP-18.

Ed-Schools
46569-15
A V S

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1
H
MAY 19 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

FILED BY C. P. F.

Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at court on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

The Carlisle Indian School is merely one of the agencies of the United States government in carrying out its work of educating the Indians and a bequest to the school is one to the United States of America for the benefit of the school. Where a bequest is beneficial and without condition as is this one to the Carlisle Indian School the law presumes acceptance and

specific consent is not necessary. Therefore no one will appear personally before the Surrogate's Court on May 31.

Respectfully,

(Signed) Cato Sells

Commissioner.

(Signed) Cato Sells

S-IP-17

Approved:

Assistant Secretary.

Ed-Schools

46569-15

A V S

MAY 19 1915

FILED BY C. P. F.

W
Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.



Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at court on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

The Carlisle Indian School is merely one of the agencies of the United States government in carrying out its work of educating the Indians and a bequest to the school is one to the United States of America for the benefit of the school. Where a bequest is beneficial and without condition as is this one to the Carlisle Indian School the law presumes acceptance and

Carbon for Secretary's Office.

specific consent is not necessary. Therefore no one will appear personally before the Surrogate's Court on May 21.

Respectfully,

(Signed) Cato Sells
Commissioner.

S-LP-17

Approved:

Assistant Secretary.

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

WASHINGTON

MAY 19 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at court on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

The Carlisle Indian School is merely one of the agencies of the United States government in carrying out its work of educating the Indians and a bequest to the school is one to the United States of America for the benefit of the school. Where a bequest is beneficial and without condition as is this one to the Carlisle Indian School the law presumes acceptance and

specific consent is not necessary. Therefore no one will appear personally before the Surrogate's Court on May 21.

Respectfully,

A handwritten signature in cursive script, likely belonging to the Commissioner, is written over the word "Respectfully,".

Commissioner.

Approved:

Assistant Secretary.

Ed-Schools
4-18-15
A V S

May 15, 1915.

Lipps, Supervisor,

Carlisle, Pa.

Office letter April twenty-second. If you have written New York authorities declining bequest in will of Bradford E. Wood recall your letter and await further instructions.

Postal

5-LP-15.

FILED BY C. P. F.

Cal Fells

GOVERNMENT NIGHT RATE.

INITIALING COPY - FOR FILE.

Do

Kindly inspect & alter if
of instructions as directed in this
opinion perceiving, May 14 to '15.
Secretary Swerney:

FILED BY C. P. F.

0229750
While I have not had
time to personally examine the
authorities in the attached memo-
randum it seems clear to me
that the conclusions reached are
sound. If the Supt. of the School
has written anything to the N.Y.
authorities I think he had better
take it back. I see no
reason for anyone appearing
before the Surrogate on May 21.

West

FOR FILE

29950

FILED BY C. P. F.

BEQUEST TO CARLISLE INDIAN INDUSTRIAL SCHOOL.

MEMORANDUM FOR MR. WEST.

DEPARTMENT OF THE INTERIOR

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL

WASHINGTON.

C.D.M.

G.J.H.

Bequest to Carlisle Indian Industrial School.

Mr. West:

FILED BY C. P. F.

One Bradford R. Wood, of Albany, New York, bequeathed to the Carlisle Indian Industrial School \$1,000. The Commissioner of Indian Affairs, April 22, 1915, writing to the Supervisor in charge of the Carlisle School, states:-

. . . although similar bequests have been received heretofore for the school, it is now deemed inadvisable to accept them. All Government Indian Schools are provided for by Congress.

It is believed that the bequest in question should be allowed to lapse into the residue of the decedent's estate. You are therefore authorized and directed to decline this bequest on behalf of the Carlisle Indian School.

A proposed letter by the Commissioner of Indian Affairs, in response to a notice from the Clerk of the Surrogate Court of Albany, New York, to the beneficiaries under Mr. Wood's will, to appear at that court on May 21, for final settlement of the accounts of the executor under the will, is submitted for the approval of the Department. In the proposed letter, the Commissioner states that:

On April 22, 1915, the Supervisor in Charge of the Carlisle Indian School was authorized and directed to decline the bequest of \$1,000 to the Carlisle Indian School

R. Wood.

included in the will of Mr. Bradford. Therefore, I wish hereby to decline on behalf of the Carlisle Indian School, the bequest so given and will request you to take whatever steps are necessary to place this decision on record before the Court.

You ask me to please give you "some law on this." I gather from the papers submitted that the bequest in question was made to "The Carlisle Industrial Indian School." There is no provision of law either specifically authorizing or forbidding the Carlisle Indian School to receive bequests. It is not a corporation, or artificial person, and has no capacity to receive devises or bequests. It is merely one of the agencies of the United States Government in carrying on its work of educating the Indians. In 26 Op. A.G., 447, Attorney General Bonaparte held that the "Library of Congress" is not a proper legatee to be named in a bequest, but that legacies to that institution should be "to the United States of America", for the benefit of the library. However, as intimated by the Attorney General in that opinion, under the liberal construction given to wills, a court would probably hold a bequest to the Carlisle Industrial Indian School to be a bequest to the United States for the benefit of the school.

There is no question as to the capacity of the United States to take property by devise or bequest. In

39 Cyc. (728-9), it is stated:

The United States has, as an incident to its Sovereignty, the power to hold and acquire property by devise or gift, unless a State statute forbids.

And in 40 Cyc., 1053, it is stated that:

In the absence of statutory authority or Constitutional provision prohibiting it, the Nation may be a beneficiary under a will.

See also the leading case of Dickson vs. the United States (125 Mass., 311); 28 Am. Repts., 230; United States vs. Fox, (94 U.S., 315); United States vs. Perkins (163 U.S., 625).

In United States vs. Fox, supra, the Supreme Court of the United States held that a devise of real estate by a citizen of New York to the United States was void under the statutes of that State, which provide that a devise of land in that State can only be made to natural persons and to corporations created under the laws of the State, and authorized to take by devise. The decision of the court was based on the finding that the United States was not a corporation within the meaning of the State statute. In that case, however, the right of the United States to take the personal property bequeathed in the same instrument was recognized and upheld.

I have made a careful search of the New York State statutes, and do not find any provisions prohibiting a

citizen of that State from bequeathing personal property to the United States. On the contrary, the right to make such bequest was recognized by the Supreme Court of the United States, not only in *United States vs. Fox*, supra, but also in *United States vs. Perkins*, supra- both New York cases. Such right was also recognized by the Supreme Court of the State of New York in the *Matter of Merriam* (141 N.Y., 479), and by the Surrogate Court of New York County in *Cullum's Estate* (25 N.Y., Supp., 699). In the latter case the testator made a bequest to the United States Government of \$250,000, upon condition that the United States erect and maintain, at West Point, New York, a memorial hall, upon the public grounds. The legacy, being upon condition, was submitted to, and accepted by Congress. In that case the court held that:

The United States obtained the legacy in question by virtue of a will made in pursuance of, and dependent for its validity upon, the laws of the State of New York, an independent Sovereignty within its proper sphere, and the United States Government is as much bound by those laws as any foreign State or nation would be under the same circumstances. The State would have the right to include the United States within that class of corporations for whose benefit a devise or bequest may not be made under certain circumstances, exceeding the specified percentage of its value, or it would have the undoubted right to declare by proper legislation that the United States could take no benefit whatever by will. (*United States vs. Fox*, 94 U.S., 315). In that case Charles Fox of the State of New York, died vested of certain personal and real property situate within the State. By his last will and testament he devised and bequeathed the whole of the property, after the payment of his debts, to the Government of the United States, for

the purpose of assisting to discharge the debt created by the War of the Rebellion. Upon the petition of the District Attorney of the United States the will was presented for probate before the Surrogate of the City and County of New York. The infant heirs of the deceased contested the will; the Surrogate decreed that the will was inoperative and void as to the devise of real estate, that the United States could not lawfully take and hold real estate as a devisee under the will, in trust or otherwise, and that it descended to the heirs at law. He, at the same time decided that the will was valid and operative as to the personal estate of the testator, and that the United States was the sole legatee, and accordingly admitted the will to probate as a will of personal estate only. This decree was affirmed by the General Term and the Court of Appeals. It was carried to the United States Supreme Court, which in turn affirmed the decision of the State tribunals.

Of course a legatee named in a will is not bound to accept the bequest, and as a bequest does not become effective until the legatee has consented thereto. However, where a bequest is beneficial, and without condition, the law presumes acceptance, and specific consent is not necessary. In ex parte Fuller (2 Story, 327), Justice Story held:

A devise by will vests in the devisee only upon his consent thereto; but when the devise is plainly for his benefit, as if it be of an unconditional fee, without trust or incumbrance, his consent will be presumed, and some solemn act is required to constitute a disclaimer or renunciation thereof.

See, also, cases cited in 18th Am. and Eng. Encyc. of Law, 2d. Edition, 743; and 40 Cyc., 1893.

In the case of James Smithson's bequest, for the purpose of establishing the Smithsonian Institution, specific acceptance by Congress was necessary, for the reason that the bequest was on condition that the United States establish and maintain^{the} Smithsonian Institution. So, also, in the Cullum case, supra, specific acceptance by Congress was necessary, because the bequest was on condition that the United States erect and maintain a memorial hall upon the West Point public grounds.

In practice, as shown by the opinion of the Solicitor of the Treasury, of October 6, 1906, in the MacDonald case- (typewritten copy hereto attached), unconditional bequests of money to the United States, although the testator specifies the particular purpose for which he desires the money to be used, are not submitted to Congress for acceptance, but are simply covered into the Treasury and reported to Congress with a view to an appropriation of the amount in such manner as to carry out the wishes of the testator.

The MacDonald case, supra, was exactly the same character of case, and involved the same questions, as here presented. Dr. MacDonald, formerly Superintendent of the Money Order System in the Postoffice Department, bequeathed to the United States the sum of \$2,000, "for the improvement of the Postal Money Order Syatem." The Post Office Department

questioned the authority of the United States to receive the bequest; expressed the opinion that no disposition of the fund could be made without the bequest first being passed upon by Congress; and proposed to decline the same and let it go to the testator's estate. The Solicitor of the Treasury held in effect that the United States has full capacity to acquire property by devise or bequest, unless the devise or bequest is invalid under the law of the State where the testator resided, or the property is situate; that the bequest to the United States for the improvement of the postal money order system, made by a resident of a State whose laws do not prohibit such a bequest, is valid; and that there is no authority on the part of executive officers of the Government to return the fund to the testator's estate; but that the fund could not be used for the purpose mentioned by the testator until specifically appropriated by Congress for such purpose. In that case the money had actually been covered into the Treasury, while in the present case the estate has not yet been settled, and the money remains in the hands of the executor.

I am of opinion that the Commissioner of Indian Affairs, and the Secretary of the Interior are without authority to decline the bequest made by Mr. Wood for the

benefit of the Carlisle Indian School, but that such power
rests in Congress ^{alone.} ~~only.~~

Respectfully submitted.

George J. Hesselman,

Assistant Attorney.

May 13, 1915.

(COPY)

October 6, 1906

The Secretary of the Treasury,

Sir:

FILED BY C. P. F.

It appears from the papers handed me recently by E. B. Daskam Esq., Chief of the Public Moneys Division, that Dr. Charles F. MacDonald, late superintendent of the Money Order System, by his last will, bequeathed to the United States the sum of \$2,000 "for the improvement of the Postal Money Order System;" that the bequest has been paid into the Treasury of the United States; the amount thereof is now represented by check No. 85550 of the Assistant Treasurer of the United States, dated October 28, 1902, in favor of the Postmaster General; and that no portion thereof has ever been expended. It also appears that some question as to the right of the United States to receive this bequest has been made, with a view of having the bequest returned to the estate of the testator. It has also been suggested by the Assistant Attorney General for the Post Office Department that the executive officers of the Government have no authority to accept this bequest, and that no disposition of the fund can be made until the bequest has been passed upon by Congress.

There is no doubt of the capacity of the United States to acquire property, real or personal, be devise or

bequest, unless such devise or bequest is invalid under the law of the State where the testator resides, or the property is situate. Dickson vs. United States, 125 Mass. 311; United States vs. Fox, 94 U.S., 315, the bequests in this case being all personalty, the validity thereof is to be determined by the law of the place where the testator was domiciled at the time of his death. Jones vs. Habersham, 107 U.S., 174. It does not fully appear from the papers submitted where Dr. MacDonald was domiciled at the time of his death, but I infer that he was domiciled at that time either in the State of Massachusetts, or the District of Columbia. There is nothing in the law of either of these jurisdictions which would invalidate a bequest of personalty to the United States. Dickson vs. the United States, 125 Mass., 311.

The bequest to the United States being valid, there is no authority on the part of executive officers of the Government to return the fund to Dr. MacDonald's estate.

I concur in the view of the Assistant Attorney General for the Post Office Department, that the fund can not be used by the Post Office Department for the improvement of the money order system until specifically appropriated to that purpose by act of Congress. I do not think, however, that an act of Congress accepting the bequest is necessary to perfect the title of the United States to the fund. It is true

that the title to a legacy is not perfect until the legatee has accepted the legacy, but the acceptance will always be implied where the legacy is beneficial to the legatee.

18 Am. and Eng. Ency. of Law, 2d Edition, 743. If the law imposes a duty or obligation upon the legatee in connection with a legacy, the legatee will, of course, incur no obligation until he has accepted the bequest. This case differs from that of the James Smithson bequest in that here the legacy has been paid into the Treasury of the United States, while there the validity of the bequest was vigorously contested in the English courts, and it was necessary for the United States to declare their purpose of carrying out the will of the testator by the establishment of the "Smithsonian Institution", in order to give them a standing in court. In several cases coming under the cognizance of this office, devises and bequests have been made to the United States, and the funds thus arising have been paid into the Treasury and become a part of the public moneys of the United States, subject to appropriation by Congress, without an act of Congress specifically accepting the devise, or bequest. I note, among others, the case of Dickson vs. the United States, 125 Mass., 311, referred to above, where it was decided that John Gardner's devise of the residuum of his estate to the United States,

to be used in "suppressing rebellion" was valid, and the United States were entitled to the property devised, though the testator did not die until ten years after the close of the Civil War. The fund in that case, amounting to about \$10,000, went into the general fund of the Treasury, subject to general appropriations, and I do not find that there was ever a specific acceptance of the devise by Congress.

I concur in the view of the Assistant Attorney General for the Post Office Department that the fact that the bequest by Mr. MacDonald should be reported by the Secretary of the Treasury to Congress, with a view to an appropriation of the amount in such manner as to carry out the wishes of the testator. I would suggest that the Postmaster General be requested to indicate the manner in which the fund could be best used.

The papers submitted are herewith returned.

Very respectfully,

(sd) F. A. Reeve,

Acting Solicitor.

C.D.M.

G.J.H.

Request to Carlisle Indian Industrial School.

Mr. West:

One Bradford R. Wood, of Albany, New York, bequeathed to the Carlisle Indian Industrial School \$1,000. The Commissioner of Indian Affairs, April 22, 1915, writing to the Supervisor in charge of the Carlisle School, states:-

although similar bequests have been received heretofore for the school, it is now deemed inadvisable to accept them. All Government Indian Schools are provided for by Congress.

It is believed that the bequest in question should be allowed to lapse into the residue of the decedent's estate. You are therefore authorized and directed to decline this bequest on behalf of the Carlisle Indian School.

A proposed letter by the Commissioner of Indian Affairs, in response to a notice from the Clerk of the Surrogate Court of Albany, New York, to the beneficiaries under Mr. Wood's will, to appear at that court on May 21, for final settlement of the accounts of the executor under the will, is submitted for the approval of the Department. In the proposed letter, the Commissioner states that:

On April 22, 1915, the Supervisor in Charge of the Carlisle Indian School was authorized and directed to decline the bequest of \$1,000 to the Carlisle Indian School

FILED BY C. P. F.

included in the will of Mr. Bradford. Therefore, I wish hereby to decline on behalf of the Carlisle Indian School, the bequest so given and will request you to take whatever steps are necessary to place this decision on record before the Court.

You ask me to please give you "some law on this." I gather from the papers submitted that the bequest in question was made to "The Carlisle Industrial Indian School." There is no provision of law either specifically authorizing or forbidding the Carlisle Indian School to receive bequests. It is not a corporation, or artificial person, and has no capacity to receive devises or bequests. It is merely one of the agencies of the United States Government in carrying on its work of educating the Indians. In 26 Op. A.G. 442, Attorney General Bonaparte held that the "Library of Congress" is not a proper legatee to be named in a bequest, but that legacies to that institution should be "to the United States of America", for the benefit of the library. However, as intimated by the Attorney General in that opinion, under the liberal construction given to wills, a court would probably hold a bequest to the Carlisle Industrial Indian School to be a bequest to the United States for the benefit of the school.

There is no question as to the capacity of the United States to take property by devise or bequest. In

39 Cyo. (728-9), it is stated:

The United States has, as an incident to its Sovereignty, the power to hold and acquire property by devise or gift, unless a State statute forbids.

And in 10 Cyo. 1053, it is stated that:

In the absence of statutory authority or Constitutional provision prohibiting it, the Nation may be a beneficiary under a will.

See also the leading case of Dickson vs. the United States (125 Mass., 311); 28 Am. Repts., 230; United States vs. Fox, (94 U.S., 315); United States vs. Perkins (163 U.S., 625).

In United States vs. Fox, supra, the Supreme Court of the United States held that a devise of real estate by a citizen of New York to the United States was void under the statutes of that State, which provide that a devise of land in that State can only be made to natural persons and to corporations created under the laws of the State, and authorized to take by devise. The decision of the court was based on the finding that the United States was not a corporation within the meaning of the State statute. In that case, however, the right of the United States to take the personal property bequeathed in the same instrument was recognized and upheld.

I have made a careful search of the New York State statutes, and do not find any provisions prohibiting a

citizen of that State from bequeathing personal property to the United States. On the contrary, the right to make such bequest was recognized by the Supreme Court of the United States, not only in *United States vs. Fox*, supra, but also in *United States vs. Perkins*, supra- both New York cases. Such right was also recognized by the Supreme Court of the State of New York in the *Matter of Merriam* (141 N.Y., 479), and by the Surrogate Court of New York County in *Cullum's Estate* (25 N.Y. Supp. 699). In the latter case the testator made a bequest to the United States Government of \$250,000, upon condition that the United States erect and maintain at West Point, New York, a memorial hall upon the public grounds. The legacy, being upon condition, was submitted to, and accepted by Congress. In that case the court held that:

The United States obtained the legacy in question by virtue of a will made in pursuance of, and dependent for its validity upon, the laws of the State of New York, an independent Sovereignty within its proper sphere, and the United States Government is as much bound by those laws as any foreign State or nation would be under the same circumstances. The State would have the right to include the United States within that class of corporations for whose benefit a devise or bequest may not be made under certain circumstances, exceeding a specified percentage of its value, or it would have the undoubted right to declare by proper legislation that the United States could take no benefit whatever by will. (*United States vs. Fox*, 94 U.S., 315). In that case Charles Fox of the State of New York, died vested of certain personal and real property situate within the State. By his last will and testament he devised and bequeathed the whole of the property, after the payment of his debts to the Government of the United States, for

the purpose of assisting to discharge the debt created by the War of the Rebellion. Upon the petition of the District Attorney of the United States the will was presented for probate before the Surrogate of the City and County of New York. The infant heirs of the deceased contested the will; the Surrogate decreed that the will was inoperative and void as to the devise of real estate, that the United States could not lawfully take and hold real estate as a devisee under the will, in trust or otherwise, and that it descended to the heirs at law. He, at the same time decided that the will was valid and operative as to the personal estate of the testator, and that the United States was the sole legatee, and accordingly admitted the will to probate as a will of personal estate only. This decree was affirmed by the General Term and the Court of Appeals. It was carried to the United States Supreme Court, which in turn affirmed the decision of the State tribunals.

Of course a legatee named in a will is not bound to accept the bequest, and a bequest does not become effective until the legatee has consented thereto. However, where a bequest is beneficial, and without condition, the law presumes acceptance, and specific consent is not necessary. In ex parte Fuller (2 Story, 327), Justice Story held:

A devise by will vests in the devisee only upon his consent thereto; but when the devise is plainly for his benefit, as if it be of an unconditional fee, without trust or incumbrance, his consent will be presumed, and some solemn act is required to constitute a disclaimer or renunciation thereof.

See, also, cases cited in 18th Am. and Eng. Encls. of Law, 2d. Edition, 743; and 40 Cyc., 1893.

In the case of James Smithsonian's bequest, for the purpose of establishing the Smithsonian Institution, specific acceptance by Congress was necessary, for the reason that the bequest was on condition that the United States establish and maintain ^{the} Smithsonian Institution. So, also, in the Cullum case, *supra*, specific acceptance by Congress was necessary, because the bequest was on condition that the United States erect and maintain a memorial hall upon the West Point public grounds.

In practice, as shown by the opinion of the Solicitor of the Treasury, of October 6, 1906, in the MacDonald case - (typewritten copy hereto attached), unconditional bequests of money to the United States, although the testator specifies the particular purpose for which he desires the money to be used, are not submitted to Congress for acceptance, but are simply covered into the Treasury and reported to Congress with a view to an appropriation of the amount in such manner as to carry out the wishes of the testator.

The MacDonald case, *supra*, was exactly the same character of case, and involved the same questions, as here presented. Dr. MacDonald, formerly Superintendent of the Money Order System in the Postoffice Department, bequeathed to the United States the sum of \$2,000, "for the improvement of the Postal Money Order System." The Post Office Department

questioned the authority of the United States to receive the bequest; expressed the opinion that no disposition of the fund could be made without the bequest first being passed upon by Congress; and proposed to decline the same and let it go to the testator's estate. The Solicitor of the Treasury held in effect that the United States has full capacity to acquire property by devise or bequest, unless the devise or bequest is invalid under the law of the State where the testator resided, or the property is situated; that the bequest to the United States for the improvement of the postal money order system made by a resident of a State whose laws do not prohibit such a bequest, is valid; and that there is no authority on the part of executive officers of the Government to return the fund to the testator's estate; but that the fund could not be used for the purpose mentioned by the testator until specifically appropriated by Congress for such purpose. In that case the money had actually been covered into the Treasury, while in the present case the estate has not yet been settled, and the money remains in the hands of the executor.

I am of opinion that the Commissioner of Indian Affairs, and the Secretary of the Interior are without authority to decline the bequest made by Mr. Wood for the

benefit of the Carlisle Indian School, but that such power
rests in Congress only.

Respectfully submitted.

George J. Haselmann

Assistant Attorney

(COPY)

October 6, 1906

The Secretary of the Treasury,

Sir:

It appears from the papers handed me recently by E. B. Daskam Esq., Chief of the Public Monies Division, that Dr. Charles F. MacDonald, late superintendent of the Money Order System, by his last will, bequeathed to the United States the sum of \$2,000 "for the improvement of the Postal Money Order System;" that the bequest has been paid into the Treasury of the United States; the amount thereof is now represented by check No. 85350 of the Assistant Treasurer of the United States, dated October 28, 1902, in favor of the Postmaster General; and that no portion thereof has ever been expended. It also appears that some question as to the right of the United States to receive this bequest has been made, with a view of having the bequest returned to the estate of the testator. It has also been suggested by the Assistant Attorney General for the Post Office Department that the executive officers of the Government have no authority to accept this bequest, and that no disposition of the fund can be made until the bequest has been passed upon by Congress.

There is no doubt of the capacity of the United States to acquire property, real or personal, be devise or

bequest, unless such devise or bequest is invalid under the law of the State where the testator resides, or the property is situate. Dickson vs. United States, 125 Mass. 311; United States vs. Fox, 94 U.S., 315. the bequests in this case being all personalty, the validity thereof is to be determined by the law of the place where the testator was domiciled at the time of his death. Jones vs. Habersham, 107 U.S., 174. It does not fully appear from the papers submitted where Dr. MacDonald was domiciled at the time of his death, but I infer that he was domiciled at that time either in the State of Massachusetts, or the District of Columbia. There is nothing in the law of either of these jurisdictions which would invalidate a bequest of personalty to the United States. Dickson vs. the United States, 125 Mass., 311.

The bequest to the United States being valid, there is no authority on the part of executive officers of the Government to return the fund to Dr. MacDonald's estate.

I concur in the view of the Assistant Attorney General for the Post Office Department, that the fund can not be used by the Post Office Department for the improvement of the money order system until specifically appropriated to that purpose by act of Congress. I do not think, however, that an act of Congress accepting the bequest is necessary to perfect the title of the United States to the fund. It is true

that the title to a legacy is not perfect until the legatee has accepted the legacy, but the acceptance will always be implied where the legacy is beneficial to the legatee.

13 Am. and Eng. Ency. of Law, 2d Edition, 743. If the law imposes a duty or obligation upon the legatee in connection with a legacy, the legatee will, of course, incur no obligation until he has accepted the bequest. This case differs from that of the James Smithson bequest in that here the legacy has been paid into the Treasury of the United States, while there the validity of the bequest was vigorously contested in the English courts, and it was necessary for the United States to declare their purpose of carrying out the will of the testator by the establishment of the "Smithsonian Institution", in order to give them a standing in court. In several cases coming under the cognizance of this office, devises and bequests have been made to the United States, and the funds thus arising have been paid into the Treasury and become a part of the public moneys of the United States, subject to appropriation by Congress, without an act of Congress specifically accepting the devise, or bequest. I note, among others, the case of Dickson vs. the United States, 125 Mass., 311, referred to above, where it was decided that John Gardner's devise of the residuum of his estate to the United States,

to be used in "suppressing rebellion" was valid, and the United States were entitled to the property devised, though the testator did not die until ten years after the close of the Civil War. The fund in that case, amounting to about \$10,000, went into the general fund of the Treasury, subject to general appropriations, and I do not find that there was ever a specific acceptance of the devise by Congress.

I concur in the view of the Assistant Attorney General for the Post Office Department that the fact that the bequest by Mr. MacDonald should be reported by the Secretary of the Treasury to Congress, with a view to an appropriation of the amount in such manner as to carry out the wishes of the testator. I would suggest that the Postmaster General be requested to indicate the manner in which the fund could be best used.

The papers submitted are herewith returned.

Very respectfully,

(sd) T. A. Reeve,

Acting Solicitor.

Secretary Swerney:-

Do you want the
question of the legality
of this bequest looked
into?

Wesl

FILED BY C. P. F.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

May 7, 1915.

Judge West:

A short time ago a man died, leaving to the United States Government, in his will, some three thousand acres of land situate in the State of Vermont. The Land Office^{at the Post} advised, by way of explanation, after^{Comm. 2} requesting a copy of the will, that no bequests to the Government could be accepted other than by an act of Congress, and this information was necessary to a proper presentation of the matter to Congress.

This I have understood to be the law.

FILED BY C. P. F.

Now, the question that presents itself to me is this: If Congress alone may accept a gift of the Government, are we authorized to decline to accept such a gift without first presenting the matter to Congress for its direction?

I return the papers to you so that you may understand my position.



Mr Hesselman

Please give me
some law on this

W.S. FILED BY C. P. F.

M.T.M.

A.W.P.

1-562 B

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

In re
Bequest of \$1,000.

April 30, 1915.

Mr. West:

FILED BY C. P. F.

This matter seems to have been heretofore considered by the Indian Bureau, at which time the supervisor in charge of the Carlisle Indian School was advised that it was not deemed advisable to accept the said bequest, as all Government Indian schools were provided for by Congress. While the record does not so indicate, I think it quite possible that this position then had the approval of the Department as it appears to have been disposed of from an administrative standpoint. On that ground alone the position impresses me as the correct one, and it having been so decided, the same should be adhered to.

Respectfully submitted,

A. W. Patterson
First Assistant Attorney.

Ed-Schools
48569-15
A V S

4

APR 29 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

FILED BY C. P. F.

Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at Court on the twenty-first day of May, 1915, at ten o'clock on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

On April 22, 1915, the Supervisor in Charge of the Carlisle Indian School was authorized and directed to decline the bequest of \$1,000 to the Carlisle Indian School included in the will of Mr. Bradford R. Wood. Therefore, I wish hereby to decline on behalf of the Carlisle Indian School, the bequest so given and will

INITIALING COPY - FOR FILE.

request you to take whatever steps are necessary to
place this decision on record before the Court.

Respectfully,

(Signed) Cato Sells

Commissioner.

4-HJS-27


Approved:

DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

WASHINGTON

APR 29 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

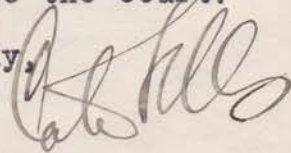
Sir:

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On April 22, 1915, the Supervisor in Charge of the Carlisle Indian School was authorized and directed to decline the bequest of \$1,000 to the Carlisle Indian School included in the will of Mr. Bradford R. Wood. Therefore, I wish hereby to decline on behalf of the Carlisle Indian School, the bequest so given and will

request you to take whatever steps are necessary to
place this decision on record before the Court.

Respectfully,

A handwritten signature in dark ink, appearing to be 'C. L. Hill', written over the word 'Respectfully'.

Commissioner.

Approved:

Assistant Secretary

Ed-Schools
48569-15
A V S

FILED BY C. P. F.

APR 29 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

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request you to take whatever steps are necessary to
place this decision on record before the Court.

Respectfully

(Signed) Cato Sells

4-HJS-27

Commissioner.

Approved:

Ed-Schools
48568-15
A V S

APR 29 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York. FILED BY C. P. F.

Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at Court on the twenty-first day of May, 1915, at ten o'clock on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

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request you to take whatever steps are necessary to
place this decision on record before the Court.

Respectfully,

(Signed) Cato Sells
Commissioner.

4-HJS-27

Approved:

Ed-Schools
48569-15
A V S

4

APR 29 1915

Mr. Randall J. LeBoeuf,
The Albany Trust Company Bldg.,
Albany, New York.

FILED BY C. P. F.

Sir:

I have received copy of the notice from the Clerk of the Surrogate's Court of Albany, New York, by reference of the Department of the Interior, citing the beneficiaries under the will of Mr. Bradford R. Wood, deceased, formerly of the City of Albany, New York, or their representatives to appear at Court on the twenty-first day of May, 1915, at ten o'clock on the forenoon of that day to attend the final judicial settlement of the accounts of the executor under the will.

On April 22, 1915, the Supervisor in Charge of the Carlisle Indian School was authorized and directed to decline the bequest of \$1,000 to the Carlisle Indian School included in the will of Mr. Bradford R. Wood. Therefore, I wish hereby to decline on behalf of the Carlisle Indian School, the bequest so given and will

COPY FOR SECRETARY'S OFFICE.

Initial here,

request you to take whatever steps are necessary to
place this decision on record before the Court.

Respectfully,

(Signed) Cato Sells

4-HJS-27

Commissioner.

Approved:

Mr. Parker

^{sup}
Q29950

Salute for
your advice

Quinn

Q29950

H-SCHOOLS

Rec'd

APR 26 1915

THE PEOPLE OF THE STATE OF NEW YORK,



By the Grace of God Free and Independent.

To

FILED BY C. P. F.

The First Congregational Church of the City of Albany, N. Y.; The Albany Guardian Society and Home for the Friendless; The Home for Aged Men; The Albany Hospital of Albany, N. Y.; The Hampton Normal and Agricultural Institution; Phillips Academy; Atlanta University; The American Board of Commissioners for Foreign Missions; The Congregational Home Missionary Society; The American Missionary Association; The Congregational Sunday School and Publishing Society; The Congregational Education Society; The Congregational Church Building Society; Albany's Hospital for Incurables; Trustees of the Corning Foundation for Christian Work in the Diocese of Albany; The Albany Orphan Asylum; St. Vincent Orphan Asylum Society; The Albany Academy; The Albany Academy for Girls; The Mohawk and Hudson River Humane Society; The Albany City Mission; The Salvation Army; Albany Rural Cemetery Association; Charlotte T. Clark; Elizabeth Clark; Mrs. Anna B. Clark Simonson; Daisy Clark McLean; Laura T. Wood; Joseph W. Clark; Townsend Clark; Raymond Simonson; Mrs. John Knox Allen; People of the State of New York for the Bureau of Military Statistics or Records; Treasurer of County of Albany; The Carlisle Indian Industrial School; Franklin K. Lane, Secretary of the Department of Interior of the United States; Cato Sells, United States Commissioner of Indian Affairs; O. H. Lipps; John Jones and James Jones, (said names John Jones and James Jones being fictitious and intended to represent all person or persons, corporation or corporations who have or might have any claim or interest in the bequest made by Bradford R. Wood to Carlisle Indian Industrial School of Carlisle, Pa.); The Saugatuck Congregational Church; William H. Saxton; John Doe, Richard Roe, and Mary Roe, (said names John Doe, Richard Roe and Mary Roe being fictitious and intended to represent all persons composing an organization or association known as Saugatuck Congregational Church of Westport, Conn., all of such persons being unknown to the Executor herein, and said fictitious names being further intended to represent and include all person or persons who have or might have, or claim any interest in a bequest made by Bradford R. Wood, the Testator herein, to said Saugatuck Congregational Church of Westport, Conn.),

And all others interested in the estate of Bradford R. Wood, late of the City of Albany in the County of Albany, deceased, as creditors, next of kin, or otherwise, SEND GREETING:

YOU AND EACH OF YOU are hereby cited and required personally to be and appear before our Surrogate of the County of Albany, at the Surrogate's Court in the City of Albany, on the 21st day of May, 1915, at ten o'clock in the forenoon of that day, then and there to attend the Judicial Settlement of the

Albany Trust Company as Executor

of the Goods, Chattels and Credits of said Bradford R. Wood, deceased; and those of you who are under the age of twenty-one years are required to appear by your guardian, if you have one, if you have none, that you appear and apply for one to be appointed, or in the event of your neglect or failure to do so, a guardian will be appointed by the Surrogate to represent and act for you in these proceedings.

IN TESTIMONY WHEREOF, we have caused the Seal of Office of our said Surrogate to be hereunto affixed.

WITNESS, NEWTON B. VAN DERZEE, Surrogate of our said County, at the City of Albany, the 21st day of April, A.D., 1915.

Quentin S. McNeill,

(Seal)

Clerk, Surrogate's Court.

THE PEOPLE OF THE STATE OF NEW YORK,

By the Grace of God Free and Independent.

To

OFFICE OF INDIAN AFFAIRS
RECEIVED

FILED BY C. P. F.

46569 APR 24 1915

The First Congregational Church of the City of Albany, N. Y.; The Albany Guardian Society and Home for the Friendless; The Home for Aged Men; The Albany Hospital of Albany, N. Y.; The Hampton Normal and Agricultural Institution; Phillips Academy; Atlanta University; The American Board of Commissioners for Foreign Missions; The Congregational Home Missionary Society; The American Missionary Association; The Congregational Sunday School and Publishing Society; The Congregational Education Society; The Congregational Church Building Society; Albany's Hospital for Incurables; Trustees of the Corning Foundation for Christian Work in the Diocese of Albany; The Albany Orphan Asylum; St. Vincent Orphan Asylum Society; The Albany Academy; The Albany Academy for Girls; The Mohawk and Hudson River Humane Society; The Albany City Mission; The Salvation Army; Albany Rural Cemetery Association; Charlotte T. Clark; Elizabeth Clark; Mrs. Anna B. Clark Simonson; Daisy Clark McLean; Laura T. Wood; Joseph W. Clark; Townsend Clark; Raymond Simonson; Mrs. John Knox Allen; People of the State of New York for the Bureau of Military Statistics or Records; Treasurer of County of Albany; The Carlisle Indian Industrial School; Franklin K. Lane, Secretary of the Department of Interior of the United States; Cato Sells, United States Commissioner of Indian Affairs; O. H. Lipps; John Jones and James Jones, (said names John Jones and James Jones being fictitious and intended to represent all person or persons, corporation or corporations who have or might have any claim or interest in the bequest made by Bradford R. Wood to Carlisle Indian Industrial School of Carlisle, Pa.); The Saugatuck Congregational Church; William H. Saxton; John Doe, Richard Roe, and Mary Roe, (said names John Doe, Richard Roe and Mary Roe being fictitious and intended to represent all persons composing an organization or association known as Saugatuck Congregational Church of Westport, Conn., all of such persons being unknown to the Executor herein, and said fictitious names being further intended to represent and include all person or persons who have or might have, or claim any interest in a bequest made by Bradford R. Wood, the Testator herein, to said Saugatuck Congregational Church of Westport, Conn.),

And all others interested in the estate of Bradford R. Wood, late of the City of Albany in the County of Albany, deceased, as creditors, next of kin, or otherwise, SEND GREETING:

YOU AND EACH OF YOU are hereby cited and required personally to be and appear before our Surrogate of the County of Albany, at the Surrogate's Court in the City of Albany, on the 21st day of May, 1915, at ten o'clock in the forenoon of that day, then and there to attend the Judicial Settlement of the Account of Proceedings of The Albany Trust Company as Executor

of the Goods, Chattels and Credits of said Bradford R. Wood, deceased; and those of you who are under the age of twenty-one years are required to appear by your guardian, if you have one, if you have none, that you appear and apply for one to be appointed, or in the event of your neglect or failure to do so, a guardian will be appointed by the Surrogate to represent and act for you in these proceedings.

IN TESTIMONY WHEREOF, we have caused the Seal of Office of our said Surrogate to be hereunto affixed.

WITNESS, NEWTON B. VAN DERZEE, Surrogate of our said County, at the City of Albany, the 21st day of April, A.D., 1915.

Quentin S. McNeill,

(Seal)

Clerk, Surrogate's Court.

At a Surrogate's Court, held in and for the County of Albany, in the County Building, in the City of Albany, on the 21st day of April, 1915.

Present - NEWTON B. VAN DERZEE, Surrogate.

IN THE MATTER OF

the Estate of BRADFORD R. WOOD, deceased.



On reading and filing the petition of The Albany Trust Company, Executor of the Last Will and Testament of Bradford R. Wood, deceased, praying that its account as such Executor be passed and allowed, it is

ORDERED, that a citation issue to all persons interested in the estate of said deceased, requiring them to be and appear at this Court on the 21st day of Mc 1915, at 10 o'clock in the forenoon of that day, to attend the final judicial settlement of the accounts of such Executor,

AND IT IS FURTHER ORDERED, that said citation be served on those residing without the State, or whose residence is unknown, by publishing once in each of four successive weeks in the Albany Argus and the Knickerbocker Press, two newspapers published in the County of Albany, in the State of New York, or at the option of the petitioner, by delivering a copy of the citation without the State to each of the persons so named or described in the petition and citation, who live without the State, but in the United States, in person, at least twenty days before the return day thereof, and on those residing without the United States, at least forty days before the return day thereof,

AND IT IS FURTHER ORDERED, that on or before the day of the first publication of said citation, the petitioner deposit in the Post-Office at Albany, in the County of

Albany, N. Y., one copy of said citation and of this order, contained in a securely closed post-paid wrapper, directed to each of the following persons and corporations:

Laura T. Wood, Stonington, Connecticut; Townsend Clark, 423 East 29th. St., Los Angeles, California; The Hampton Normal & Agricultural Institute, Hampton Virginia; Phillips Academy, Andover, Massachusetts; Atlanta University, Atlanta, Georgia; American Board of Commissioners for Foreign Missions, 14 Beacon St., Boston, Mass; Congregational Sunday School and Publishing Society, Boston, Mass; Congregational Education Society, Boston, Mass. Saugatuck Congregational Church, Westport, Connecticut; Carlisle Indian Industrial School, Carlisle, Pa; O. H. Lipps, Carlisle, Pa; Franklin K. Lane, Secretary of the Dept. of the Interior, Washington, D. C.; Cato Sells, Commissioner of Indian Affairs, Washington, D. C.; William H. Saxton, Saugatuck, Connecticut; and it further appearing that John Jones and James Jones and John Doe, Richard Roe and Mary Roe are persons in said petition and citation named or described, whose names and places of residence are unknown and cannot, after diligent inquiry, be ascertained.

IT IS FURTHER ORDERED, that the mailing as aforesaid to said John Jones and James Jones, and John Doe, Richard Roe and Mary Roe, be dispensed with.

Newton B. Van Hise
Surrogate.

State of New York,

ss.:

County of

being duly sworn,

deposes and says that he is

in this action; that he has

read the foregoing

and knows

the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged upon information and belief, and as to the those matters he believes it to be true.

SWORN TO BEFORE ME, THIS

DAY OF 191

State of New York,

ss.:

County of

being duly sworn, says

that he is the of

, the in the above

entitled action; that he has read the foregoing

and knows the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true; that the reason why this verification is made by deponent and not by the

is that

is a domestic corporation and that the deponent is an officer, to wit:

thereof. Deponent further says that the grounds of h belief, as to all matters not stated upon h knowledge are

SWORN TO BEFORE ME, THIS

DAY OF 191

At a Surrogate's Court, held in and for the County of Albany, in the County Building, in the City of Albany, on the 21st day of April, 1915.

Present - NEWTON B. VAN DERBEEK, Surrogate.



IN THE MATTER OF

the Estate of BRADFORD R. WOOD, deceased.

On reading and filing the petition of The Albany Trust Company, Executor of the Last Will and Testament of Bradford R. Wood, deceased, praying that its account as such Executor be passed and allowed, it is

ORDERED, that a citation issue to all persons interested in the estate of said deceased, requiring them to be and appear at this Court on the 21st day of May 1915, at 10 o'clock in the forenoon of that day, to attend the final judicial settlement of the accounts of such Executor.

AND IT IS FURTHER ORDERED, that said citation be served on those residing without the State, or whose residence is unknown, by publishing once in each of four successive weeks in the Albany Argus and the Knickerbocker Press, two newspapers published in the County of Albany, in the State of New York, or at the option of the petitioner, by delivering a copy of the citation without the State to each of the persons so named or described in the petition and citation, who live without the State, but in the United States, in person, at least twenty days before the return day thereof, and on those residing without the United States, at least forty days before the return day thereof.

AND IT IS FURTHER ORDERED, that on or before the day of the first publication of said citation, the petitioner deposit in the Post-Office at Albany, in the County of

Albany, N. Y., one copy of said citation and of this order, contained in a securely closed post-paid wrapper, directed to each of the following persons and corporations:

Laura T. Wood, Stonington, Connecticut; Townsend Clark, 423 East 29th St. Los Angeles, California; The Hampton Normal & Agricultural Institute, Hampton, Virginia; Phillips Academy, Andover, Massachusetts; Atlanta University, Atlanta Georgia; American Board of Commissioners for Foreign Missions, 14 Beacon St., Boston, Mass; Congregational Sunday School and Publishing Society, Boston, Mass; Congregational Education Society, Boston, Mass; Saugatuck Congregational Church, Westport, Connecticut; Carlisle Indian Industrial School, Carlisle, Pa; O. H. Lipps, Carlisle, Pa; Franklin K. Lane, Secretary of the Dept. of the Interior, Washington, D. C.; Cato Sells, Commissioner of Indian Affairs, Washington, D. C.; William H. Saxton, Saugatuck, Connecticut; and it further appearing that John Jones and James Jones and John Doe, Richard Roe and Mary Roe are persons in said petition and citation named or described, whose names and places of residence are unknown and cannot, after diligent inquiry, be ascertained.

IT IS FURTHER ORDERED, that the mailing as aforesaid to said John Jones and James Jones, and John Doe, Richard Roe and Mary Roe, be dispensed with.

Newton B. Winfree
Surrogate

State of New York.
County of

} ss.:

being duly sworn,
deposes and says that he is _____
_____ in this action; that he has
_____ read the foregoing _____ and knows
the contents thereof; that the same is true to the knowledge of deponent, except as to the matters therein
stated to be alleged upon information and belief, and as to the those matters he believes it to be true.

SWORN TO BEFORE ME, THIS _____ }
DAY OF _____ 191 _____ }

State of New York,
County of

} ss.:

being duly sworn, says
that he is the _____ of _____
_____, the _____ in the above
entitled action; that he has read the foregoing _____
and knows the contents thereof; that the same is true to the knowledge of deponent, except as to the
matters therein stated to be alleged upon information and belief, and as to those matters he believes
it to be true; that the reason why this verification is made by deponent and not by the _____
_____ is that _____
is a domestic corporation and that the deponent is an officer, to wit: _____
thereof. Deponent further says that the grounds of h belief, as to all matters not stated upon h
knowledge are

SWORN TO BEFORE ME, THIS _____ }
DAY OF _____ 191 _____ }

Sir: Take notice of an.....

of which the within is a copy, filed and entered in the within entitled action in the office of the clerk of.....

on the..... day of.....

191 ..

Dated, Albany, N. Y.,

.....191

Yours, &c.,

RANDALL J. LEBOEUF

Attorney for

Office and Post Office Address,

**THE ALBANY TRUST COMPANY BUILDING
31-33 STATE STREET,
ALBANY, N. Y.**

To.....

Attorney for.....

**SURROGATE'S COURT
ALBANY COUNTY.**

In the Matter of
the Estate of
BRADFORD R. WOOD,
Deceased.

Copy

**ORDER THAT CITATION
ISSUE AND PUBLISH**

RANDALL J. LEBOEUF

Attorney for **Executor,**

Office and Post Office Address,

**THE ALBANY TRUST COMPANY BUILDING
31-33 STATE STREET,
ALBANY, N. Y.**

Due and personal service of the within

..... and of the notice hereon

endorsed, is admitted this..... day of

.....191

Attorney for

F. D. SARGENT, ALBANY, N. Y.

Conclusion
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Ed.-Schools
43918-15
A V S

1-21690

APR 22 1915

Mr. O. H. Lipps,
Supervisor in Charge,
Carlisle Indian School.

My dear Mr. Lipps:-

I have your letters of April 2 and 14, transmitting correspondence in regard to a bequest made the Carlisle Indian School by Mr. Bradford R. Wood, deceased, formerly of New York State, and asking to be advised as to authority of law in the matter.

It will not be necessary to pass on the legal question involved in this particular instance for the reason that although similar bequests have been received heretofore for the school, it is now deemed inadvisable to accept them. All Government Indian Schools are provided for by Congress.

It is believed that the bequest in question should be allowed to lapse into the residue of the decedent's estate. You are therefore authorized and directed to decline this bequest on behalf of the Carlisle Indian School.

The papers which accompanied your letter are returned herewith.

Sincerely yours,

(Signed) Cato Sells.

INITIALING COPY - FOR FILE

4-EJL-20.

Commissioner.

Mr. Comr
For your
attention &
action. I am
not in favor
of requests
for Gov. Indian
schools
EPM

1-045

SPECIAL

6-2359

Ed-Schools
38707-15
A V S

Bequest
\$1000.

Mr. O. H. Lipps,

Supervisor in Charge,

Carlisle Indian School.

My dear Mr. Lipps:

The Office has received your letter of April 2, transmitting correspondence in regard to a bequest made the Carlisle Indian School by Mr. Bradford R. Wood, deceased, formerly of New York State, and asking to be advised as to authority of law on the matter.

In "Girard on Titles to Real Estate," page 411, is cited the case of Burrill v. Boardman, 43 N. Y., 254, in which it was decided that a bequest of personalty, or of the proceeds of realty, to the Government or to a state, without any words of qualification or trust, would be valid although a direct devise of real estate might be invalid.

This case suggests that a citizen of New York may by the State law make a valid bequest to the United States of personal property, and although similar bequests have

INITIALING COPY - FOR FILE.

been received heretofore by the school, it is now deemed inadvisable to accept them, inasmuch as all Government Indian schools are sufficiently provided for by Congress.

It is believed that the bequest in question should be allowed to lapse into the residue of the decedent's estate. You are, therefore, authorized and directed to decline this bequest on behalf of the Carlisle Indian School.

The papers which accompanied your letter are returned herewith.

Very truly yours,

Commissioner.

4-LP-10.

April 14, 1915.

Randall J. LeBoeuf, Esq.,
Attorney and Counsellor At Law,
Albany, N. Y.



My dear Mr. LeBoeuf:

FILED BY C. P. F.

Replying to your letter of April 12th, I am enclosing herewith copy of a personal letter I have just written to the Commissioner of Indian Affairs, asking that this matter be made special, and that you be advised as soon as possible as to the attitude of the Indian Office. If you deem it advisable you might have the Court cite me to appear on the accounting for the purpose of protecting the Government's interests, and I will endeavor to respond.

Very respectfully,

OHL:SR

A. H. Lipps
Supervisor in Charge.



DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SCHOOL
CARLISLE, PA.



April 14, 1915.

Hon. Cato Sells,
Commissioner of Indian Affairs,
Washington, D. C.



FILED BY C. P. F.

My dear Mr. Sells:

I enclose herewith another letter just received from Mr. Randall J. LeBoeuf, Attorney and Counsellor At Law, Albany, N. Y., in reference to the legacy to the Carlisle Indian Industrial School of \$1,000 bequeathed under the terms of the last will and testament of Bradford R. Wood.

Several days ago I forwarded to the Office the correspondence in this case, and I now ask that this matter be made special and that the attorney be advised as soon as possible as to whether or not this school, being a Government Institution, can accept a legacy of this nature. Mr. LeBoeuf states that the laws of New York prohibit any citizen thereof making a bequest to an institution supported by the Government or by public funds.

Each
1000
15
If this legacy can be accepted by the school it could be used to good advantage in aiding ambitious Indian students, who desire to continue their education after finishing one of the courses at Carlisle. Several of our more ambitious boys and girls would like to do this, and I should like very much to be in a position to render them some assistance by way of

encouragement.

Please have this matter made special and advise me as soon as possible what steps you recommend should be taken.

Very respectfully,

OHL:SR

W. H. Jones
Supervisor in Charge.



DEPARTMENT OF THE INTERIOR
UNITED STATES INDIAN SCHOOL
CARLISLE, PA.

April 2, 1915.



The Honorable
Commissioner of Indian Affairs,
Washington, D. C.

Sir:

FILED BY C. P. F.

Each

I transmit herewith correspondence in regard to a bequest made the Carlisle Indian School by Bradford R. Wood, deceased, of New York state. From the correspondence it will be noted that there is some question as to whether or not under the laws of New York state, a citizen of that state can make a bequest to the United States. Please investigate this matter carefully and advise me as to any authority of law for this school accepting such bequests. The attorney is anxious to be advised regarding this matter as soon as possible.

Very respectfully,

OHL:SR

O. H. Lipps
Supervisor in Charge.