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COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

DEC 16 1935

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The Honorable,

The Secretary of the Interior.

Sir:

There has been received your letter of September 25, 1935, as follows:

"Further reference is made to your letter of February 26, 1935, wherein you called attention to the provisions of section 20 of the Permanent Appropriation Repeal Act, approved June 26, 1934 (48 Stat. 1233) which directs that moneys received by the Government as trustee analogous to certain funds listed therein shall be deposited into the Treasury as trust funds with appropriate title.

"You expressed the view that individual Indian money is analogous to the funds mentioned in said section 20 and outlined a method of procedure for depositing such money into the Treasury. While it might be considered that some analogy does exist between funds held in trust for minor and restricted adult Indians and certain funds listed in section 20, it does not appear that the Congress intended that the legislation in question should affect in any way this class of money. It seems clear from the introduction to the report on the hearings conducted by the Subcommittee of the House Committee on Appropriations beginning February 12, 1934, that the purpose of the act was to repeal all existing laws which permitted the withdrawal annually of funds from the Treasury and dispensed with the necessity of obtaining specific annual appropriation thereof. In other words, the act as its short title plainly indicates repealed permanent appropriations of public funds.

"I am sure you will agree that individual Indian funds are in no sense appropriated moneys. They represent in most part income which has accrued to ward Indians from the leasing of their lands for farming, grazing and mining purposes and from the investment of their moneys. No part of these funds represents charges against public funds in the Treasury except indirectly in a few instances where appropriations have been made to satisfy judgments obtained in the Court of Claims by Indian tribes. Moreover, they have never

been considered or treated as permanent and indefinite appropriations. It is true that a small balance appears on the books of the Treasury under the trust fund symbol and title '5T010 Individual Indian Moneys, Trust Funds', but this resulted from the erroneous covering into the Treasury of certain items which could not be identified as to individual ownership and were more properly for credit to '5T009 Unclaimed Individual Indian Moneys'.

"It is significant that the agenda of the House Subcommittee did not include this fund and that it was not discussed at any time during the hearings. It seems unlikely that the Committee would have overlooked a fund approximating \$60,000,000 including investments and bank deposits, and yet considered one (Unclaimed individual Indian moneys) amounting to less than a thousand dollars unless the members considered that the former was not one that came within the intended scope of the hearings. This view is strengthened by the fact that the trust fund account mentioned above was on the books of the Treasury prior to and during the course of the hearings and therefore subject to investigation by the Committee.

"As a practical matter, no economy or advantage would result from the deposit of individual Indian money into the Treasury. On the contrary such procedure would increase the work in both the local Indian office and the field offices and would complicate the present simple method of handling this money. As you know, under the current procedure, collections of individual Indian money are deposited by a disbursing agent in his official checking account with the Treasurer of the United States or, in a few instances, with a bank and the individual accounts of the Indians as well as a control account are simultaneously credited. Disbursements are made directly from this checking account and a complete accounting of receipts and expenditures made periodically to the General Accounting Office. The proposed procedure would interpose the following additional operations between the collection and expenditure of this money:

1. Deposit of all collections into the Treasury on Form 1 for credit to Miscellaneous Receipts.
2. Issuance of covering warrants by the Treasury.
3. Issuance of appropriation warrants by the Treasury.
4. Submission of requests for advances of funds by the field offices of the Indian Service.
5. Preparation of requisitions for funds by the Indian Office.
6. Issuance of accountable warrants by the Treasury.
7. Maintenance of a receipt account and an appropriation account by each field unit of the Indian Service handling individual Indian money.

8. Maintenance of a receipt account and an appropriation account by the Indian Office for each field unit.
9. Maintenance of a general receipt account and a general appropriation account by the Treasury Department.
10. Maintenance of a general receipt account and individual appropriation accounts by the General Accounting Office.

"At the present time, there are 81 field offices of the Indian Service handling individual Indian money. Assuming that each office would transfer its collections monthly to the credit of the United States and would request an advance of funds once each month, there would result 1944 transactions annually which would require more than 3,000 postings to the books of the Indian Office alone. Should deposits be made daily, the volume of transactions and postings would of course be increased accordingly.

"If after considering the foregoing you are still of the opinion that the provisions of section 20 of the Permanent Appropriation Repeal Act, 1934, embrace individual Indian money it is requested that you do not insist upon the deposit of this money into the Treasury until an opportunity has been had to procure remedial legislation during the next session of the Congress."

Section 20 of the permanent appropriation Repeal Act approved

June 26, 1934, 48 Stat. 1233, provides:

"(a) The funds appearing on the books of the Government and listed in subsections (b) and (c) of this section shall be classified on the books of the Treasury as trust funds. All moneys accruing to these funds are hereby appropriated, and shall be disbursed in compliance with the terms of the trust. Hereafter moneys received by the Government as trustee analogous to the funds named in subsections (b) and (c) of this section, not otherwise herein provided for, except moneys received by the Comptroller of the Currency or the Federal Deposit Insurance Corporation, shall likewise be deposited into the Treasury as trust funds with appropriate title, and all amounts credited to such trust-fund accounts are hereby appropriated and shall be disbursed in compliance with the terms of the trust: * * *

This is followed by a list of numerous trust fund accounts among which are a number of accounts representing funds belonging to private individuals which were not necessarily derived from appropriated funds. See particularly items Nos. 14, 16, 21, 35, 43, 58 and 67.

There is no doubt, therefore, but that funds belonging to individual Indians and held by the Indian Service constitute trust funds within the purview of section 20 of the above act and should be deposited in the treasury and accounted for as such.

However, in view of the facts your letter sets forth, particularly the additional burdens which would be imposed upon the Government by reason of the procedure necessary in giving effect to the requirements of section 20 of the act of June 26, 1934, supra, and taking into consideration also the provisions of the act of April 30, 1908, 35 Stat. 73, this office feels justified in not insisting upon compliance with the requirements of its letter of February 26, 1935, until an opportunity, as you request, has been afforded your Department for presentation of the matter to the Congress for its further consideration at its next regular session, - the procedure prescribed in said letter of February 26, 1935, with respect to individual Indian moneys, to be for following from the closing date of such session unless otherwise specifically provided by law.

Respectfully,

(Signed) J. R. McCarl

Comptroller General
of the United States.