

# PIPER v. BIG PINE SCHOOL DISTRICT OF INYO COUNTY:

## *Indigenous Schooling and Resistance in the Early Twentieth Century*

*By Nicole Blalock-Moore*

**ABSTRACT:** Prior to the 1920s, the state of California authorized local school districts to educate Native American children in “separate but equal” facilities where there was no federal Indian school in the vicinity. In 1923 seven Indian children in Inyo County attempted to enroll in a public school instead of attending the poorer quality local Indian day school. The state Supreme Court, in *Piper v. Big Pine School District* (1924), ruled in their favor. The case was central to ending segregation in California’s public schools.

*Keywords:* Native American education, Indian school segregation, *Piper v. Big Pine*, separate but equal doctrine

**B**ig Pine is a small town (1,756 residents in the 2010 US census) in the sparsely populated county of Inyo in the southern region of California. Located in a little strip of land between Kings Canyon National Park and Death Valley National Park, Big Pine is the site of the key turning point in the struggles for Indian education

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that ended the California practice of sending Indian<sup>1</sup> children who qualified for public schools to be educated instead in government day schools. Prior to the 1924 case of *Piper v. Big Pine School District of Inyo County*,<sup>2</sup> California utilized the “separate but equal” schooling doctrine condoned by the 1874 California State Supreme Court in *Ward v. Flood* and upheld in the 1896 US Supreme Court decision in *Plessy v. Ferguson* to justify a form of Indian educational segregation. The case began in 1923 when a fifteen-year-old Owens Valley Paiute (Nuwuvi) girl by the name of Alice Piper and six others were refused admittance to the Big Pine school district in Inyo County on the basis of their Indian descent. This led to a firestorm of controversy ending with the California Supreme Court’s unanimous decision in *Piper v. Big Pine School District of Inyo County* (1924) that, as the daughter of tax-paying parents who did not belong to a tribal group in treaty relations with the United States, Ms. Piper qualified as a citizen under the Dawes Act of 1887 and could not be denied her right to an education in the public schools. According to the court, because the Big Pine school district operated no separate school for Indian children, Piper and any other Indian children who were not considered wards of the government must be accepted into the Big Pine school just as all other local children with taxpaying parents.

Coincidentally, the California court’s decision came on the same day (June 2, 1924) that Congress passed the Indian Citizenship Act of 1924, which declared all Indians, regardless of membership in a tribe, citizens of the United States,<sup>3</sup> though it was not until 1935 that the California legislature declared Indian children to be exceptions to groups that could be segregated in California public schools. It would be 1947 before the last school segregation provisions were removed entirely from California law.

Although the educational rights for California’s Indians are a separate discussion from those of other minorities due to the position

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1. Throughout this paper, I have chosen to use the terms “California Indian” and “Indian.” While these terms are problematic in their origin as the European designations of indigenous peoples of the Western Hemisphere, they have been commonly adopted by the peoples whose place of origin or aboriginal homeland eventually became the state of California.
  2. Alice Piper et al., Petitioners, v. Big Pine School District of Inyo County et al., Respondents (1924) 193 Cal. 664.
  3. Indians had been granted voting rights as citizens in California in 1917, in the Ethan Anderson case discussed later in the paper (page 359) in which Frederick Collett had played a part. These were citizenship rights for Indians in California who did not live on large reservations.

Photo of the Owens Valley Paiute in front of their community center about the time of the *Piper v. Big Pine School District* case. Alice Piper is the first left in the back upper row; her father, Pike Piper, is the first left in the front row. *Courtesy of the Laws Railroad Museum & Historic Site, Bishop, California*



of the indigenous peoples as sovereign nations, the conflicts surrounding educational rights for California's Native American population and other minorities have sometimes seemed similar because they were often tied together in state educational policies. This intertwined history provides context for the attitudes of California's white population towards the integration of schools. The courage of Alice's family to protest the unjust actions of the teacher and board of trustees in denying her admittance to the Big Pine grammar school was just one step in the history of minority education rights, one that was vital to educational equality for Indians throughout California.

### RESEARCH METHODOLOGY

In this paper, I examine the documentary record concerning the early struggles of Indians in Inyo County to gain fair and equal access to a quality education for their children. The sources are predominantly contemporary newspaper articles and primary-source documents, including court documents and letters, contextualized by secondary monographs detailing the relations between American Indian nations and white settlers in California and early state education systems.<sup>4</sup> The only monograph that discusses the case of *Piper v. Big Pine School District of Inyo County* is a 1976 book by Charles Wollenberg, *All Deliberate Speed: Segregation and Exclusion in California Schools, 1855–1975*,<sup>5</sup> which examines the history of minorities in the education system in California. Although *Piper v. Big Pine* is critical to his discussion about Indian education, only three pages are actually focused on the case itself.<sup>6</sup> His work is an essential starting point for an in-depth discussion of the *Piper* case and is helpful in identifying additional sources, both specifically about the case and generally about Indian education and California's history of segregated schools.

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4. Even utilizing these resources, many questions still remain about the case. Without oral history, it is difficult to track the feelings and perspectives of the Indian people involved. The newspapers and letters referenced throughout this paper are all publications owned and written by the white settlers. While speculation can be used to interpret the writing, sometimes the intended meanings behind statements made in the articles or letters are unclear to us as outsiders, separated from the full context of the moment in history.

5. Charles Wollenberg, *All Deliberate Speed: Segregation and Exclusion in California Schools, 1855–1875* (Berkeley: University of California Press, 1976). The book was based on his earlier dissertation.

6. *Ibid.*, 96–98.

My purpose is to uncover the circumstances directly leading to the events surrounding the fateful day in August of 1923 when Indian children were rejected from enrolling in the public grammar school. I examine the court case documents obtained from the California State Archives, the communications of the Indian Affairs Office in Washington, DC, and the petitions and arguments submitted by the litigants that provide a frame of reference surrounding conflicts over education and segregation. Newspaper articles from the California State Library microfilm collection were also reviewed, as were correspondence and reports archived in the Indian Office Files for Bishop Agency, California, in the National Archives. The Tribal Historic Preservation Officer (THPO), Bill Helmer, with the Big Pine Paiute Tribe of the Owens Valley Tribal Office, provided additional guidance. Informal discussions with residents of the area led to some information about Alice Piper herself but little on her role in this struggle. Dialogues with the THPO and area residents illuminate how little information is currently available from tribal archives and oral history on this case.

My personal communications with members of the community revealed that the only person still alive known to have been a friend of Alice Piper is Dorothy Stuart. The two became friends while both lived in Inyo County. Although they did not work at Stewart Indian School in Carson City, Nevada, at the same time, both were employed there during their lives. Conversations with Dorothy revealed that she remembered Alice as a kind and caring person who was close to her father but never talked about the case as an adult. At the time Wollenberg wrote his dissertation in 1976, Alice Piper herself was still alive. How we might wish that he had interviewed her. Sadly, she is no longer with us to tell her story.<sup>7</sup>

This research, with some questions guided by information from my conversations with people living in the Owens Valley, may be a source of information for the tribe to document an important piece of their educational history. Copies of all research were provided to the Big Pine Paiute Tribe of the Owens Valley Tribal Office. A copy of this paper has also been provided to that office, to the Inyo County Superintendent of Schools office, and to the specific individuals who assisted with this research.<sup>8</sup>

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7. Alice Piper passed on in 1986 at the age of 77.

8. The research will be utilized by the Inyo County Superintendent's office for the purpose of

## BACKGROUND

California Indians were not the only ethnic group in California to experience school segregation. Prior to *Piper v. Big Pine*, there were three challenges by other groups to “separate but equal” laws heard by the California State Supreme Court. In the court’s ruling in *Ward v. Flood* (1874), education was established as a right protected by the Fourteenth Amendment (1868); however, it also claimed that separate schools were acceptable and that local jurisdictions had the right to enforce segregated enrollment.<sup>9</sup> It was twenty-two years before this ruling was tried before the United States Supreme Court in *Plessy v. Ferguson* (1896).<sup>10</sup> The ruling affirmed the validity of the “separate but equal” doctrine for the entire country, upholding the *Ward v. Flood* precedent until the 1954 decision in *Brown v. Board of Education*.<sup>11</sup> When *Tape v. Hurley* (1885) came before the California court, the justices confirmed the right of the plaintiff, nine-year-old Mamie Tape, to attend a public school in San Francisco under the Fourteenth Amendment and declared that it would hold the Board of Education in contempt if it fired the principal for enrolling her under court order; the court did not tackle the issue of separate schools.<sup>12</sup> By the time Tape, who was of Chinese descent, had completed the necessary requirements for enrolling at the public school, a new, separate school for Chinese children had been built in San Francisco, and the Board of Education sent her there.<sup>13</sup> The next test of California legislation regarding the state’s “separate but equal” policies came just a few years later in 1890. After initially losing his case in lower courts, Edmond Wysinger, an African American, appealed to the Supreme Court of California for the admittance to Visalia’s public schools of his twelve-year-old son, Arthur.<sup>14</sup> Here the court ruled that African American children must be allowed to attend regular, non-segregated public schools, along with Indian and white children.<sup>15</sup>

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developing local history curriculum for their 11<sup>th</sup> graders.

9. Wollenberg, *Deliberate Speed*, 17–27.

10. *Plessy v. Ferguson* 163 U.S. 537 (1896).

11. *Ibid.*; *Brown v. Board of Education* 347 U.S. 483 (1954).

12. Wollenberg, *Deliberate Speed*, 41.

13. *Ibid.*, 42–43.

14. Wollenberg, *Deliberate Speed*, 25.

15. *Ibid.*, 25–26. Children of “Mongolian” heritage continued to be excluded.



The court's decision was based on an 1880 statute which removed the word "white" before the word "children" in Section 1662 of the Political Code, thus amending it to read:

Every school, unless otherwise provided by law, must be open for the admission of all children between six and twenty-one years of age residing in the district; and the board of trustees, or city board of education, have power to admit adults and children not residing in the district whenever good reason exists therefor. Trustees shall have the power to exclude children of filthy and vicious habits, or children suffering from contagious or infectious diseases.<sup>16</sup>

Interestingly, University of California professor Irving Hendrick reported years later that, according to the Report of the Commissioner of Indian Affairs in 1894, just three schools in California admitted Indian children under a tuition contract, and by 1903 no California public schools were enrolling Indian children under the plan, with the number of participating schools declining nationwide. In 1912, the federal government began to push local officials into accepting Indian children in public schools despite community opposition. It was not until additional policy changes and increased appropriations for Indian education in the 1920s and 1930s that these efforts met with success.<sup>17</sup>

### INDIAN EDUCATION IN CALIFORNIA

In his 1974 paper presented to the American Educational Research Association in Chicago, Hendrick characterized California Indian education as defined by neglect, segregation, discrimination, and inferior curricula. Hendrick's words concisely summarized the experiences of Indian children in many states, especially California.<sup>18</sup> In his paper, Hendrick parsed the history of education for California Indians into three periods. The first, between 1849 and 1870 (the first

16. *Wysinger v. Crookshank* 82 Cal. 588, January 29, 1890.

17. Irving G. Hendrick, "Federal and State Roles in the Education of Indians: The California Experience, 1850-1934," paper presented at the annual meeting for the American Educational Research Association, Chicago, Illinois, 1974, and circulated by the US Department of Health, Education and Welfare, National Institute of Education in April 1974, 19.

18. Hendrick, *Federal and State Roles*, 33. For other discussions of the history of American Indian education focusing on the experiences of children in western schools, see David Wallace Adams, *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928* (Lawrence: University of Kansas Press, 2007); Brenda J. Child, *Boarding School Seasons: American Indian Families, 1900-1940* (Lincoln: University of Nebraska Press, 2000); K. Tsianina Lomawaima and Brenda J. Child, eds. *Away From Home: American Indian Boarding School Experiences, 1879-2000* (Phoenix, AZ: The Heard Museum, 2000); Jon Allen Reyhner and Jeanne M. Oyawin Eder, *American Indian Education: A History* (Norman: University of Oklahoma Press, 2006).

two decades after statehood), saw no formal attempts at incorporating Indians into schools. The second, from 1870 to 1920, dominated by mandatory education in federal day and boarding schools, focused on assimilation.<sup>19</sup> The third, beginning in the 1930s, was characterized by a federal policy shift whereby public schools would hold the primary responsibility for Indian education.<sup>20</sup> Although a few schools around the state had been open to Indian children since the 1890s, such practice was rare and based upon local sentiments.<sup>21</sup> What is interesting about these temporal delineations is that the *Piper v. Big Pine* case falls squarely into the time period of the 1920s, which Hendrick does not define as belonging to either of the periods around it, but rather leaves as a transitional period between the predominance of government-run schools and the integration of Indians into public schools.

I argue that the 1920s were a very important time for Indian education in California. Hendrick acknowledges the *Piper v. Big Pine* decision as central to ending segregation in California's public schools. While he is also thorough in his contextualization of Indian education in California, this paper introduces additional analysis of the conflicts of the 1920s and explores whether they might have represented organized, deliberate resistance. With reference to both Wollenberg and Hendrick, I suggest that the conflict of *Piper v. Big Pine* is set in both a broad story of Indian education and a transitional decade marked by activism against the historic treatment of Indian schooling.

#### INDIAN EDUCATION IN THE OWENS VALLEY

The importance of accessible educational opportunity for the Big Pine Band of Owens Valley Paiute Shoshone is well documented. The *Inyo Independent* reported in 1891 that "the Indians at Big Pine are the only people of their race who ever employed a teacher to conduct a school for their own children."<sup>22</sup> Opposed to the Indians financing and run-

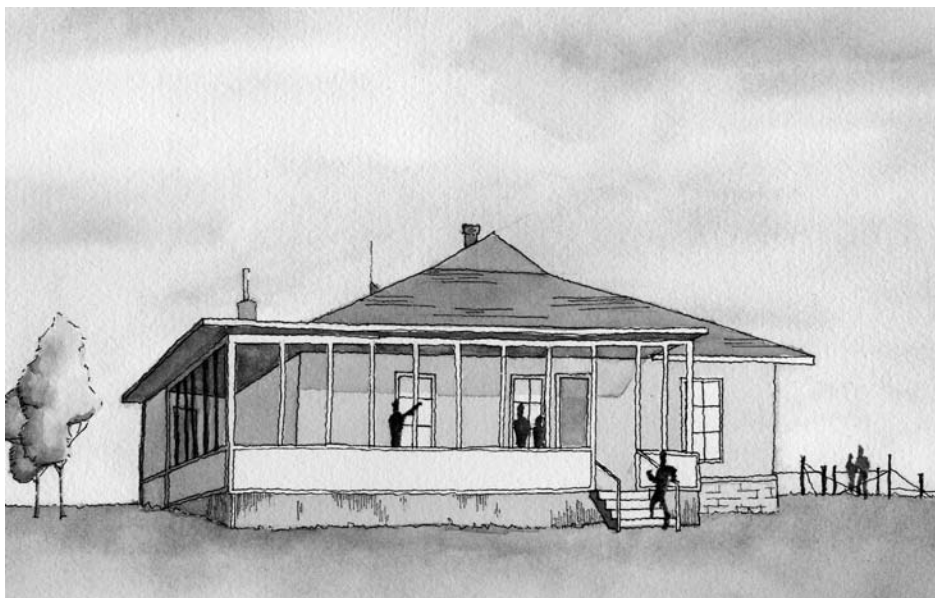
19. Rich-Heape Films, Inc.'s poignant documentary, "Our Spirits Don't Speak English: Indian Boarding School" (2008), features interviews with elders who experienced the physical, mental, and emotional abuses of US Government boarding schools. It explores the policies that sought to eradicate Indian culture and thus the Indian from America.

20. Hendrick, *Federal and State Roles*, 2.

21. *Ibid.*, 4, 19.

22. *Inyo Independent*, February 13, 1891. We also know that this is not entirely true, as the Cherokee, Chickasaw, Choctaw, Muscogee, and Seminole had education systems that were decimated by the 1898 Curtis Act amendment to the United States Dawes Act. For more information, see Margaret Szasz, *Education and the American Indian* (Albuquerque: University of New Mexico Press, 1974), 9.





Indian Day School, [Big] Pine Creek, Inyo County, believed to be the old schoolhouse that the Bureau of Indian Affairs purchased in 1891 and converted into an Indian Day School. *Sketch made from copy of photo in NARA Indian Office records RG 75, Bishop 22199-20-820, illustrating the 1920 inspection report to the commissioner. Artist: Harold Wolfe, AIA, NCARB*

ning their own school (even though by doing so they released the government from having to develop a school program), Washington officials immediately moved to purchase the Big Pine schoolhouse and establish a government-run day school, for which they employed teachers trained at the Indian school in Carson City, Nevada.<sup>23</sup> Government support for the day school was problematic, however. The 1899 annual Report to the Commissioner of Indian Affairs from Superintendent James K. Allen notes that the Owens Valley Paiute helped finance their schools after not having received federal support in the way of clothing or noonday lunches. In his report, Allen called for the government to supply the government day school in Big Pine with furniture and equipment to sustain their endeavor. Newspapers in the region periodically reported on education for the Indians of the Owens Valley up until the mid-1920s when the *Piper* case was concluded.<sup>24</sup>

23. *Inyo Independent*, February 13, 1891.

24. For examples, see "Big Pine Indian School," *Inyo Register*, October 19, 1893; "Christmas at the Indian School," *Inyo Independent*, December 26, 1902; "Carson Indian School in Disfavor," *Inyo Register*, January 12, 1905; "Indians Schools," *Inyo Independent*, May 29, 1908; and "Training the Indians," *Inyo Register*, September 3, 1914.

About twenty years after the institution of the government day schools, support for their maintenance began to drop. C.E. Kelsey, an attorney appointed in 1906 as the Bureau of Indian Affairs Special Indian Agent for California, addressing the Commonwealth Club of California in October 1909, presented "The Rights and Wrongs of California Indians."<sup>25</sup> Kelsey went on to publish his thoughts in *Indian Rights and Wrongs*. Throughout his remarks, Kelsey examines the tentative relations between white settlers and the original inhabitants of California. In regard to schools, Kelsey observes disparate attitudes regarding Indian enrollment:

In a majority of districts containing Indian children to-day [*sic*] they are not admitted. In the larger centers there is usually no objection. In small districts which would otherwise lapse for small attendance Indian children are invited. In only too many districts the truant officer is deaf and dumb and blind when he passes the rancherias.<sup>26</sup>

Between 1910 and 1920 alone, the federal government closed thirty-eight government-run schools, including twenty-three day schools.<sup>27</sup> These closures were unpopular among white settlers who opposed admitting Indian children to public schools. When government-run schools closed, their Indian pupils had to be enrolled in public facilities in order to comply with the state's compulsory attendance laws. Statewide, enrollment in the remaining government-run schools for Indians had dropped about 25 percent by 1920 and public schools were already absorbing the students from the closed schools.<sup>28</sup> Already in 1913, Kelsey wrote in a letter, some 150 California schools were admitting Indian children even without tuition contracts from the federal government to reimburse public schools for the costs of educating Indian students and incentivizing Indian enrollment.<sup>29</sup> Soon after, the US Controller concluded that Indians were eligible

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25. The Commonwealth Club of California represented itself as a community of members rallying for good citizenship and as an agency for the promotion of the state's welfare. It positioned itself as a sort of scientific endeavor, utilizing objective investigation on public matters in its monthly dinner discussions. The "Transactions of the Commonwealth Club of California" was the resulting series published from those discussions.

26. C.E. Kelsey, "The Rights and Wrongs of California Indians," *Transactions of the Commonwealth Club of California*, vol. 9, no. 7, San Francisco, December, 1909: 415–442.

27. Evelyn Adams, *American Education: Its Men, Ideas and Institutions (series II)* (New York: Arno Press, 1971), 65.

28. Ibid.

29. Report of the Commissioner of Indian Affairs, 1914.

to enroll in public schools without tuition and after October 22, 1913, the tuition policy was halted.<sup>30</sup> The Indian Office partially rescinded its no-tuition policy just two years later in 1915 to permit payments from the government for districts enrolling Indian children and needing building repair, if those Indian children were of at least one-quarter Indian blood and their parents did not pay real estate taxes.<sup>31</sup> As early as 1917, complaints against the two teachers of the nearby Bishop day school were being submitted by the Superintendent to the Commissioner for their tactics of dodging educational requirements



New combination high school and grammar school, Big Pine, ca. 1920. The public schools had better facilities, better teachers, and provided a better education than the Indian day schools. Ambitious students and their parents sought admission to the public school in 1923. Their rejection led to the *Piper v. Big Pine School District* (1924) case before the California State Supreme Court, which they won with a unanimous decision of the justices. *J. D. Black Papers*, Department of Archives and Special Collections, William H. Hannon Library, Loyola Marymount University.

30. Hendrick, *Federal and State Roles*, 21.

31. *Ibid.*, 19.

to promote students, thus keeping enrollments (and tuition income) high.<sup>32</sup> By 1919, more than half of the eligible Indian children in California were enrolled in public schools.<sup>33</sup>

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CALIFORNIA*

It was under these conditions that the Piper case came into existence. On December 11, 1923, attorney J.W. Henderson filed a petition for a writ of mandate<sup>34</sup> to the California State Supreme Court on behalf of Alice Piper. According to tribal enrollment applications, Alice was born June 7, 1908, and she was three-fourths Paiute. Big Pine is listed as her and her parents' place of birth and continued home. Her father's Indian name was Maw-che (English name Pike Piper). On her father's side, she was the granddaughter of Te-va-ku-wa (English



Alice Piper, detail of Owens Valley Paiute community photo on page 359, about the time of the *Piper v. Big Pine School District* case in 1924 when she was fifteen years old. *Courtesy of the Laws Railroad Museum & Historic Site, Bishop, California.*

name listed as Sepsey), and her great-grandparents were Co-ma-hah-nuh-gu and Ya-pah-cu-ha. Maw-che's father's family was white and unknown to him. Her mother's Indian name was Pow-we-we-ni (English maiden name Annie Stewart). Her maternal grandparents were

32. Ibid., 11.

33. Ibid., 22.

34. A writ of mandate is a court order issued to a governmental agency to follow the law by either correcting its prior actions or ceasing illegal actions.

Wo-ho-ki-ke and Pow-now-we. She was the great-granddaughter of Pi-we-u-ni, Pa-tu-ko-hu-ta-chu-gu, La-hu-u-ne, and Poun-ga-za.<sup>35</sup>

The petition names as defendants the Big Pine School District of Inyo County; the State of California; school district trustees James Stewart, F.E. Twist, L.L. Goen, James Dowd, A.R. Mc Donald, and Mary Conners; and teacher Holtes T. Allen for their decision to deny the entrance of Alice Piper as a result of her Indian heritage. It is noted that the application was made directly to the state supreme court, as the defendants asserted they would fight until the highest court of the state made a decision, appeal the decisions of any lower court, and thus delay the possibility of improving the educational situation of Ms. Piper.<sup>36</sup>

This was not, however, Henderson's only case. He filed a similar petition for a writ of mandate on December 24, 1923, for the benefit of Virgilia Knight and her parents against the Carroll School District in Mendocino County.<sup>37</sup> That case, as described in Victoria Patterson's 1988 article in *News from Native California*, is strongly reminiscent of *Piper v. Big Pine*. Henderson describes Virgilia, a Pomo of the Yokayo rancheria and fifth-grade graduate of the federally funded day school, as a girl "of good habit and character, in good health and in need of and desirous of obtaining an education."<sup>38</sup> One difference from Alice Piper is that Virgilia had completed all of the education available to her through the local day school and desired to further her education by entering the public school.

However, the connection between these two cases goes beyond the similarities in the girls' situations. Henderson was one of the attorneys for Frederick Collett's Indian Board of Cooperation (founded in 1913). News reports from the time of *Piper v. Big Pine* hint that Collett, an Evangelical minister famous for involving himself in the affairs of California Indians, had more to do with the education fight than the local Indian community did.<sup>39</sup> Collett's involvement with California

35. Application for Enrollment, Application No. 5335 & 5336. United States Department of the Interior, Office of Indian Affairs.

36. Petition for Writ of Mandate, filed December 11, 1923, *Piper v. Big Pine* (1924) 193 Cal. 664, California State Supreme Court Files W.P.A. 27126, California State Archives, Sacramento, California, 1; *Inyo Register*, February 21, 1924, 1.

37. Victoria Patterson, "Virgilia Knight et al. v. Carroll School District," *News from Native California*, 1988: 7-10; Petition for Writ of Mandate, filed December 24, 1923, *Knight v. Carroll School District* (1924), Superior Court of the State of California, Mendocino County.

38. Petition for Writ of Mandate, *Knight*, 2.

39. James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1986), 209.

Indians began when he and his wife first agreed to teach at the Colusa rancheria and subsequently begin campaigning for the enrollment of Indian children in California's public schools beginning in 1911.<sup>40</sup> Henderson was at one time the president of Collett's Indian Board of Cooperation and also represented Ethan Anderson (Pomo) in his 1917 legal suit for Indians not living on reservations to gain the right to vote.<sup>41</sup> The Indian Board of Cooperation concentrated its early efforts on desegregating schools.<sup>42</sup> The Board was later embroiled in conflict when Collett was indicted for fraudulent activities.<sup>43</sup> Wollenberg discusses negotiations between an auxiliary group of Collett's Board, comprised of Indian constituents allowed limited participation rather than full membership rights, and the Big Pine school trustees over an undocumented agreement reached in 1921 whereby local Indians would help finance a school construction project in exchange for integrated enrollment.<sup>44</sup> Apparently, in 1923, after the trustees refused to honor the agreement, citing recent changes to the California Political Code, Collett's Board became more actively involved in the conflict, creating additional disharmony in the community. In what appears to have been an attempt to discredit and remove Collett from the disagreement, local newspapers published warnings to the Indian community over his continued involvement along with criticisms of his character.<sup>45</sup> Regardless, the Indian Board of Cooperation remained involved in taking the case to court in the fall of 1923, after Alice Piper and her comrades were refused admittance to the school.

Considering the escalating conflict, Henderson and Collett found what was perhaps a perfect confluence of circumstances in the region, leading to the *Piper v. Big Pine* case. Three years before the December 1923 filing of *Piper v. Big Pine*, the *Inyo Register* had called for the federal government to create a local boarding school for nearby Bishop's

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40. Timothy M. Wright, "'We Cast Our Lot with the Indians from That Day On': The California Indian Welfare Work of The Reverends Frederick G. Collett and Beryl Bishop-Collett, 1910-1914" (M.A. Thesis, California State University, Sacramento, 2004).

41. Heizer and Sturtevant, eds. *Handbook of North American Indians*, 715.

42. James J. Rawls, *Indians of California*, 209.

43. *Ibid.*

44. Wollenberg, *All Deliberate Speed*, 93-96.

45. *Inyo Register*, September 6, 1923, 1.



325 school-age Indians (aged five to twenty).<sup>46</sup> The author claimed that, while the local day schools only provided an education up to the third grade, state law required more years of education.<sup>47</sup> In fact, by 1918, all states had legislated compulsory education, and in California all persons aged five to eighteen were subject to full-time education.<sup>48</sup> The author expressed concern over the possibility that local Indian children sent to faraway boarding schools might be exposed to and contract tuberculosis from non-California Indian schoolmates.<sup>49</sup> The newspaper's call for a local boarding school, however, was never realized.

Later in that same year, 1920, the Bishop newspaper, the *Inyo Register*, reported, "The admission of Indian children into the schools has become something of an issue in the neighborhood."<sup>50</sup> The question before the West Bishop district trustees at the time involved children of Indian parents who were private landowners and paid taxes. When white parents declared that they were opposed to allowing Indian children into classrooms attended by white children, the reporter suggested that the county could relinquish the small amount of monies gained by assessing Indian-owned property and force them into government-run schools. Ray R. Parrett, Superintendent of the Bishop Indian Agency, questioned a Bureau of Indian Affairs (BIA) regulation excluding children of taxpaying Indians from government schools, which had aroused concern among local white parents who were opposed to the transfer of these Indian children to the public schools. As an example, he reported the case of physically deformed, fourteen-year-old Bert, son of Maria McGee Shaw, a Paiute Indian, whom school trustees were attempting to bar from the public school due to white parents' sentiments over his physical deformity and Indian blood, despite the fact that his mother was a taxpayer.<sup>51</sup> Then, in 1921, the Political Code of California was changed, providing reason to believe that Indian children (among others) could be

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46. *Inyo Register*, February 5, 1920, 1.

47. *Ibid.*

48. Cal. Edu. Code § 48200–48208.

49. *Inyo Register*, February 5, 1920, 1. It is unclear from the article if the concerns of the community were focused on the health of the Indian children, or if there were fears for themselves if the Indian children were to bring tuberculosis back with them and pass infection to the white community.

50. *Inyo Register*, December 23, 1920, 1.

51. *Ibid.*

excluded from public schools regardless of the circumstances. Under the amendment, the third paragraph of Section 1662 now read:

The governing body of the school district shall have power to exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases, and also to establish separate schools for Indian children and for children of Chinese, Japanese or Mongolian parentage. When such separate schools are established Indian children and children of Chinese, Japanese or Mongolian parentage *must not* [emphasis added] be admitted into any other school.<sup>52</sup>

It is unclear who initiated the amendment; however, Hendrick cites long-standing jurisdictional squabbles over whether the state or the federal government was responsible for enforcing compulsory attendance laws and the general racist animosity toward Indians throughout California as being primary motivations for the state legislature.<sup>53</sup>

Superintendent Parrett's letter of February 10, 1921, to the Commissioner of Indian Affairs intimated the existence of continuing racial tension between whites and Indians in the region, hindering an easy resolution to education issues.<sup>54</sup> In his letter, Parrett pleads for the appointment of an Agency Policeman in Bishop, noting

The presence of a good Indian officer on the streets would change the entire attitude of the Indians, and if required to respect such an officer, they would likewise be taught to respond more quickly to good advice from the whites, and thus acquire a much higher standing in the opinion of the whites.<sup>55</sup>

Further, Parrett describes an appropriate Indian officer as a member of another tribe who had been educated and had the requisite physical strength to directly carry out any instructions of the superintendent for the business and peacekeeping of the community.<sup>56</sup> Essentially, Parrett was desirous of a model assimilated Indian whom he could use as a strong arm to quell resistance, thereby showing the white community that Indians could be (a) kept under control and (b) assimilated into white culture.

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52. Cal. Stats. §1662 as amended in 1921.

53. Hendrick, *Federal and State Roles*, 24.

54. Parrett to Commissioner of Indian Affairs, February 10, 1921, 2. Indian Office Files, Records Group 75, Bishop 22199–20–820, National Archives, Washington, DC.

55. *Ibid.*, 1.

56. *Ibid.*, 1–2.

State Superintendent of Public Instruction Will C. Wood, after being approached by school trustees seeking to block Bert's admission if they could do so legally, sought the guidance of State Attorney General Ulysses S. Webb.<sup>57</sup> Webb's opinion, quoted in the *Inyo Register* on March 3, 1921, stated, "Indian children not living in tribal relationship nor on Indian reservations must be permitted to attend the public schools of California," but under certain circumstances might be compelled to attend the government school.<sup>58</sup> In the same article, Indian Superintendent Parrett furnished further clarification, stating: "Federal regulations provide that children of Indians who possess a patent in fee to their lands, shall not be admitted into a school maintained by the government, but must attend the public school of the district within which they reside."<sup>59</sup>

Apparently, the conflicts over Indian enrollment in public schools continued in spite of the opinions of state officials Webb and Wood. Less than one year after their declaration that the West Bishop trustees were obliged to allow all children of taxpayers, whether white or Indian, to enroll in the public school, another letter from State Attorney General Webb to State Superintendent of Public Instruction Wood was reprinted on the front page of the *Register*, this time directed to the teacher at Big Pine.<sup>60</sup> The letter directly addresses the problem of Indian education; it had also been sent directly to L.L. Goen, Big Pine's public schoolteacher. In it, Webb reiterates his points from the previous year's controversy over the enrollment of Bert at public school.<sup>61</sup> He distinctly emphasizes that he and the United States government both held the position that Indian children whose parents were taxpayers had the right to attend public schools and that the legislature of California was without the power to deny them entrance despite the Section 1662 amendment.<sup>62</sup>

At the beginning of the school year in 1923, several Indian children and their parents attempted to gain admission to the Big Pine grammar school.<sup>63</sup> The children were refused admittance, and the

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57. *Inyo Register*, March 3, 1921.

58. *Ibid.*

59. *Ibid.*

60. *Inyo Register*, January 12, 1922.

61. *Inyo Register*, March 3, 1921; *Ibid.*, January 12, 1922.

62. *Inyo Register*, January 12, 1922.

63. *Inyo Register*, September 6, 1923.

newspaper reported that the situation would go to the courts.<sup>64</sup> The *Register* claimed that Indian children were doing fine in the government schools and that they could not possibly have the same level of care if they were put into the public schools.<sup>65</sup> Missing from its account are the reports and letters between the local Superintendent, Parrett, and the Indian Affairs Office in Washington, DC. For example, in a letter dated March 29, 1923, Assistant Commissioner E.B. Meritt advised Parrett that he no longer held authority to approve additional tuition contracts or to make allotments to public schools in the Bishop Agency for the education of Indian children since the total amount of funds allotted for public school funding had already been entirely obligated for the year.<sup>66</sup> This was three months shy of the end of the school year and only six months ahead of the day that Alice Piper and other Indian children would be refused entrance to Big Pine School. With this same letter, Meritt returned contracts with three school districts already hosting Indian children, without ratifying them or guaranteeing payment at the end of the school year.<sup>67</sup>

Subsequent communications testify to the mounting tensions over money. Grace Tracy, a clerk for the Antelope Union District, wrote to Superintendent Parrett in May, beseeching his help for the payment of tuition.<sup>68</sup> She itemized the expenses of a teacher and a bus specifically employed for Indian students, fulfilling the terms of one of the returned contracts, and she indicated the costs to the district as a hardship for which the US Government was responsible for payment.<sup>69</sup> No documents are on file in the Indian Office correspondence that point to that contract ever being paid.

During this same period, the files of the Mission Agency (serving the Iviatim, Kuupangaxwichem, Taaqtam, and Payomkowishum Nations in southern California)<sup>70</sup> indicate a similarly dismal educational environment. The 1923 files show that in government day

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64. Ibid.

65. Ibid.

66. Assistant Commissioner Meritt to Superintendent Parrett, March 29, 1923, 1. Indian Office Files.

67. The returned contracts are from the Antelope Union, Ryan, and Inyo School Districts; Ibid., 1.

68. Grace M. Tracy to Ray Parrett, May 10, 1923. Indian Office Files.

69. Ibid., 1.

70. The names given in the text are those used by the nations themselves. The names given to them by colonizers were the Cahuilla (Iviatim), the Cupeño (Kuupangaxwichem), the Serrano (Taaqtam) and the Luiseño (Payomkowishum).

schools, thirteen of forty-seven students were enrolled in the third grade, with none advancing due to their having failed the standardized testing requirements.<sup>71</sup> Hendrick, reporting on the challenging nature of the examination, stated that urban white children of the time would have found the questions difficult at best.<sup>72</sup> The average age of these students was thirteen and their time spent in school was just six years. Of five day-school teachers working at the Mission Agency in 1923, at least four were high-school graduates and three had at least two years of college, placing them as similarly credentialed to some public-school teachers of the time.<sup>73</sup> The teachers' annual pay, however, reflected a low regard for Indian children and for investing in educating them: the teacher with three years of college education was earning \$900 and the others (with high-school educations) earned \$760 per annum. The average wage at the time for women elementary teachers in the public schools around in California was \$1600.<sup>74</sup>

Additionally, surveys conducted in 1923 by the California State Assistant Superintendent of Public Instruction, Georgiana Carden, showed that, while boarding schools did not properly equip children for life on reservations, neither were the day schools providing a sufficient education. Her research found that the education received at boarding schools did not meet government claims of equality with white schools and that the life tenure of day-school teachers came with such a low salary that they performed their duties neither competently nor efficiently. As for the Indian children for whom the federal government paid tuition contracts to public schools, those funds, earmarked to support the children with food or clothing as needed, were used instead for increasing teacher salaries and maintaining school buildings.<sup>75</sup>

When the Bishop newspaper *Owens Valley Herald* picked up the "Indian Troubles" story six days after the children were blocked from enrolling in Big Pine, widespread approval for the board's

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71. Figures calculated and reported by Hendrick, *Federal and State Roles*, 14–15.

72. Hendrick, *Federal and State Roles*, 15.

73. *Ibid.*, 13.

74. *Ibid.*, 13–14.

75. William J. Drew, "Educational Provisions for California Indians," in *Transactions of the Commonwealth Club of California*, 21, no. 3 (June 8, 1926): 114. It notes that Assistant Superintendent of Public Instruction Georgiana Carden and anthropologist Alfred Kroeber were both in attendance that evening and assisting in his report to the club. Georgiana Carden's papers are archived at the University of California, Berkeley, Bancroft Library, collection BANC MSS 68/129 c.

decision was announced.<sup>76</sup> F.G. Collett is again mentioned as the lead agitator for Indian educational rights and is accused of creating a situation that would be more unfavorable for the Indians by fomenting conflict between Indians and other regional residents.<sup>77</sup> With no other mention of the conflict until October, it is unclear what actions ensued. When “Indians in Schools” appeared in the *Inyo Register* on October 25, it reported that the Indian children of the region were returned to the government day school pending the outcome of a suit before the Supreme Court of California.<sup>78</sup> In addition to the knowledge that public schools were no longer guaranteed payment for educating Indian students that year, reports from early 1924 (shortly after the *Piper* case was brought before the state supreme court) note that, in fact, a number of Indian children were still enrolled in public schools across California.<sup>79</sup>

The quality of education provided by government schools was an issue of concern not merely at the local but at the national level. An Advisory Council, comprised of one hundred “progressive citizens,” met in Washington, DC, in 1923 to consider ways of improving the service of the Bureau of Indian Affairs.<sup>80</sup> The Report of the Committee of One Hundred (released in January 1924) asserts that declining enrollments in government schools were due to inadequate facilities and incompetent personnel.<sup>81</sup> The committee’s call for increased federal appropriations and improved facilities was paired with a call to increase public school enrollment of Indian children (where teachers were more highly trained, had more modern facilities, and offered more challenging curricula) along with a provision for scholarships for high school and college.<sup>82</sup> So many Indian chil-

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76. *Owens Valley Herald*, September 12, 1923; an identical article also appears on the front page of the *Inyo Independent* entitled “Indian Difficulties” on September 15, 1923.

77. *Owens Valley Herald*, September 12, 1923.

78. *Inyo Register*, October 25, 1923, reprinted from the *Big Pine Citizen*.

79. W.W. Coon to Commissioner of Indian Affairs, January 3–12, 1924, 1. Indian Office Files. Although Coon does not specifically state that the children enrolled in public schools across the state are or are not the children of non-taxpaying Indians, all of his reports and school contracts filed with the Indian Office indicate that the children he is reporting on are from non-taxpaying families. For example, see “Application for Public School Contracts,” May 24, 1924, on behalf of the Ryan School District, Inyo County, California, 2. Indian Office Files.

80. Adams, *American Education*, 66.

81. *Ibid.*, 66.

82. *Ibid.*



dren were leaving the day schools that when BIA Supervisor Coon submitted a report to the Commissioner of Indian Affairs in January 1924, he attributed the Bishop day school's low enrollment entirely to the attendance in public schools by Indian children.<sup>83</sup> He noted that the day-school teacher, Mr. Simeral, is "not as progressive in his work as he should be. Twenty years ago he would have been considered a good teacher."<sup>84</sup> Conversely, Coon reports that the Big Pine day school has a good program and the highest enrollment in the region at fourteen pupils, with an additional eight Indian children enrolled in the Big Pine public school.<sup>85</sup> Not only was there evidence directly from employees of the federal government that the education at the day schools was not equal to that at the public school in the same district, but, in fact, day schools were in danger of being shut down due to too few Indian children attending the programs.<sup>86</sup>

Coon's report additionally details his opposition to the government allotting any additional funds to the day schools based on "the Collett agitation" which might close the school, indicating that the administrative officials were aware of the possibility of their being found in the wrong in early stages of the case.<sup>87</sup> He predicted that if the state court decided against the Indians, Collett would have the Indians boycott the schools until they were shut down and the public schools had no other option but to enroll Indian children.<sup>88</sup> Supervisor Coon related to the Commissioner his assessment of Collett's tactics, warning the Indian Office of Collett's mission to close down all of California's day schools in order to place Indian children in the public schools.<sup>89</sup> Coon concluded smugly that this maneuver would not

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83. Coon to Commissioner, January 3-12, 1924, 1. Indian Office Files.

84. *Ibid.*

85. *Ibid.*, 3. These eight students were presumably in higher grades, as the case documents indicate that the public school would allow Indian students who had completed all the grades offered at the government school.

86. *Ibid.* At the time, BIA was closing any day school program with less than eight students, so the successful outcome of *Piper v. Big Pine School District*, resulting in the transfer of Alice Piper and her six comrades out of the day school, may have threatened its closure.

87. Coon to Commissioner, January 3-12, 1924, 1. Indian Office Files, 2.

88. *Ibid.*, 3. The Interior Department Appropriation Act of 1930, 25 USC Sec. 292a (March 4, 1929, ch.705, 75 Stat. 1576.) states, "All day schools with an average attendance in any year of less than eight shall be discontinued on or before the beginning of the ensuing fiscal year." This same or similar provision was contained in prior appropriation acts beginning in 1920.

89. Coon to Commissioner, January 3-12, 1924, 4.

be successful in areas such as Tule River where public schools were at too great a distance for the daily travel of the students.<sup>90</sup>

In an attempt to ease relations with the public schools in Inyo County, already wary of the government due to the unfulfilled financial contracts, Coon recommended that, if Indians were allowed to enter public schools, the Indian Office must be prepared to offer tuition for their education.<sup>91</sup> "Indians are much more welcome in public schools where tuition is paid," he advised the Commissioner.<sup>92</sup> "By far the largest number of pupils under this jurisdiction are attending public schools. This is as it should be for the product[s] of the public schools make the best citizens," he concludes.<sup>93</sup>

In his March 1924 response to Supervisor Coon's report, and echoing editorials printed in the newspapers at the outset of the conflict, Superintendent Parrett stresses the Big Pine public school trustees' objections to allowing Indian children to attend.<sup>94</sup> Parrett's concerns over the outcome of the case parallel that of Supervisor Coon, and he instructs the Commissioner that he is uncertain as to the degree of cooperation that can be expected from the trustees in transferring the Indian children to the public school.<sup>95</sup> On a more optimistic note than Coon, Parrett predicts that, if the court affirms the legality of the current decision to deny Indian children admittance into the public schools, then the Indians of the region would become more cooperative, Collett would no longer have grounds to create unrest, and the Indians would then be obliged to accept government schools.<sup>96</sup> Parrett's conclusion on the matter echoed that of Supervisor Coon, intimating that if they could no longer enforce segregation by means of the day school, then tact and discretion in

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90. Ibid., 4.

91. Ibid.

92. Ibid.

93. Ibid., Section II, 1.

94. Parrett to Commissioner, March 13, 1924, 2, Indian Office Files; also see *Inyo Register*, September 6, 1923; *Owens Valley Herald*, September 12, 1923; *Inyo Independent*, September 15, 1923.

95. Parrett to Commissioner, March 13, 1924, 2. Indian Office Files.

96. Ibid., 3–4. I speculate that Parrett's meaning is that Collett would be embarrassed by having created the unrest that then failed, leading him to back off from pursuing the conflict further. Once that happened, the Indians would have no alternative than to accept the local government school for their education, as the trustees would not allow Indian children to enroll in the public school.

offering tuition for the Indian children would appease the school trustees for the “burden” of educating Indian children.<sup>97</sup>

### THE CONFLICT GOES TO COURT

It was an exciting morning [in August 1923] when the request [of the seven children to enroll in the Big Pine public school] was made, all the mothers and fathers of children of school age, Indian...and white, were on the street to hear the answer of the district trustees. When the request was denied the Indians immediately took court action, presenting their case in the name of Alice Piper, a beautiful[,] intelligent Indian girl.<sup>98</sup>

Twenty-three years after *Piper v. Big Pine School District of Inyo County* officially began, Mary Alice Robinson, a pioneer who was in her mid-sixties while the case was being fought, gave the above account. Why was it Alice Piper and her family who were chosen to lead this struggle? Was the conflict really backed and followed by all the Indian families despite the focus on a single girl and her family? Were non-taxpaying Indian families equally involved? These are questions to which the answers have not yet been uncovered. We know that Alice Piper was not the only Indian child refused entrance to school that fateful August day,<sup>99</sup> but why she was the one at the forefront of the struggle may never be known.<sup>100</sup> The testimony of Ms. Robinson is perhaps the only clue we will ever have.

Another question is the extent to which Indian resistance was spontaneous or orchestrated by Collett. One clue comes from a meeting years later between California Indian leaders and a California legislative subcommittee on Indian Affairs. At the meeting, Ethan Anderson (Pomo) and others including Stephen Knight, Virgilia Knight's father, who had joined Collett's Indian Board of Cooperation in its early efforts to help California Indians, denounced Collett's practice of collecting dues from poor Indians for their limited membership on the Board and his manipulation of Indians'

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97. Ibid., 3-4.

98. *Inyo Independent*, May 10, 1946.

99. *Inyo Register*, September 6, 1923; *Owens Valley Herald*, September 12, 1923.

100. Perhaps further research into F.G. Collett's involvement might shed some light on this particular point.

ignorance of how to represent themselves.<sup>101</sup> Also remaining unclear are the terms of the 1921 agreement between the Indian community members and the school trustees; what role Collett and the Indian Board of Cooperation might have played in the original agreement; whether or not the school trustees and local leaders were instrumental in urging the legislature to make the changes to the Political Code in 1921; or if new trustees and leaders came into the community and chose to use the Political Code changes as an excuse to renege on that 1921 pledge to integrate the Big Pine school. Simultaneous to these events, reports of negative sentiments by white parents and a decline in federal government tuition contracts also appear to have impacted the school trustees' decision.

Despite this, Alice Piper is the name that will be forever associated with the struggles of Indian children to gain access to public education in California. The original petition was filed in December of 1923.<sup>102</sup> Following this, the defendants representing the Big Pine school district of Inyo County filed a demurrer,<sup>103</sup> claiming that, based on Section 1662 of the Political Code of California as amended in 1921, there were no laws being broken and thus no grounds for a writ of mandate to be issued.<sup>104</sup> The court overruled this objection, and the case was scheduled to be reviewed by the justices upon the filing of the arguments and briefs.

The petitioners, Alice Piper and her parents, claimed three points to illustrate their argument for the writ of mandate. First, that she and her parents were not tribal Indians, had never lived on the reservation, and were, in fact, taxpayers in both the county and state; second, that the government day school facilities did not furnish an education equal to that of the Big Pine school district; and third, that Section 1662 of the California Political Code was unconstitutional

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101. The denouncement occurred in March 1946 at a time when Indian leaders were moving towards the development of an organization for Indian welfare that would be led by Indian people themselves rather than others. Terry Castaneda, "Making News: Marie Potts and the Smoke Signal of the Federated Indians of California," in *Women in Print: Essays on the Print Culture of American Women from the Nineteenth and Twentieth Centuries*, eds. James P. Danky and Wayne A. Wiegand (Madison: The University of Wisconsin Press, 2006), 80–82.

102. Petition for Writ of Mandate, December 11, 1923, Piper v Big Pine (1924) 193 Cal. 664, California State Supreme Court Files W.P.A. 27126, California State Archives, Sacramento, California.

103. A demurrer is a type of legal filing that is specifically designed to convince the judge that, even if the allegations of the initial complaint are true, there is no legal basis to the suit.

104. According to the demurrer (see footnote 105), filed on February 4, 1924. For a definition of a writ of mandate, see footnote 34.

in keeping Indian children out of public schools.<sup>105</sup> In the evidence brief, the attorney for the Pipers, Henderson, focused his argument strongly on the rights of Indian children for an education and the unconstitutionality of the California political code. Citing the state and United States constitutions, Henderson argued that Indian children had the right to be educated in a system of free, common schools as citizens of the United States<sup>106</sup> and that California courts had already established this precedent.<sup>107</sup> Further, Henderson noted that, prior to the 1921 amendment, the California political code gave the right to education in public schools to *all* children.<sup>108</sup> Despite this, the California legislature had seen fit to pass an amendment specifically discriminating against Indian children living in a district with a government-run school, compelling them to attend said school.<sup>109</sup> The amendment was troublesome because earlier decisions in California maintained only that a school had to be established and not that the educational program at the separate school must be equal in caliber.

The defense, responding to the petition, held steadfastly to its claims that, according to the California Political Code, the district school did no wrong in refusing Alice Piper admittance to the public school.<sup>110</sup> Citing the *Ward v. Flood* (1874) case used by the petitioners, the defendants ignored the legal opinions of Attorney General Webb and the State Superintendent provided in 1921 and 1922 and maintained that the courts had already decided that a writ of mandate for admittance of children to public schools based on the Fourteenth Amendment was not valid.<sup>111</sup> Referencing the decision in *Ward v. Flood*, the defense quoted from the 1874 case:

105. Demurrer, February 4, 1924, California State Archives; Brief of Petitioners, February 13, 1924, California State Archives.

106. Points and Authorities on Application for Writ of Mandate to Compel the Admission of Indian Children to the Public Schools, December 11, 1923, 1. California State Archives.

107. *Ibid.*, 2; The cases to which Henderson referred were *Ward v. Flood* (1872) 48 Cal. 36, *Kennedy v. Miller* (1893) 43 Cal. 429, *San Diego v. Daur* (1893) 97 Cal. 442, and *Bruch v. Colombet* (1894) 104 Cal. 347. (The constitution dictates that the education department is a state responsibility and requires the adoption of a single system applicable to all common schools within the state.)

108. Points and Authorities on Application for Writ of Mandate to Compel the Admission of Indian Children to the Public Schools, December 11, 1923, 2. California State Archives.

109. *Ibid.*, 3.

110. Answer, February 4, 1924. California State Archives.

111. *Inyo Register*, March 3, 1921 and January 12, 1922; Typed Memo of Argument, February 4, 1924. California State Archives.

No person can lawfully demand admission as a pupil in any such school because of the mere status of citizenship; and it is perhaps hardly necessary to add that assuredly no person can be said to have been deprived of either life, liberty or property, because denied the right to attend as a pupil at such schools.<sup>112</sup>

As additional refutation of the claims made by the petitioners, the defense answered that L.L. Goen, the teacher at the government day school, held the same teaching license as those held by the teachers in the public schools and that Piper, upon completion of the sixth grade, would be eligible to enroll in the public school to continue her studies.<sup>113</sup> In making such an argument, however, the defense conceded that the public schools had no problem admitting Indian children after they had completed as much of their schooling as was available at the day school and in accordance with California state law. In the closing brief, the defense went on to assert that allowing Indian children to attend the public schools in districts where a separate BIA-funded government school was maintained would place an extra, unnecessary burden on the taxpayers.<sup>114</sup> The defense repeated the argument that Piper was not being denied an education but was encouraged to seek her education in the separate school provided by the government until such a time as she could no longer study there.<sup>115</sup> According to the defense, this was perfectly legal in light of court precedent and the political codes of the state of California.<sup>116</sup>

Nonetheless, Alice Piper prevailed. The justices indicated that the denial to children whose parents, as well as themselves, are citizens of the United States and of this state, admittance to the common schools solely because of color or racial differences without having made provision for their education equal in all respects to that afforded persons of any other race or color, is a violation of the provisions of the fourteenth amendment of the constitution of the United States.<sup>117</sup>

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112. As quoted in Typed Memo of Argument, February 4, 1924, 3. California State Archives.

113. Answer, February 4, 1924, 3. California State Archives.

114. Respondents' Closing Brief, February 25, 1924, 1. California State Archives. These claims are, of course, false, as the Indian children attempting to enroll in the public schools were the children of local, taxpaying citizens.

115. This argument is exactly the one used by the petitioners in the case of *Knight v. Carroll School District* (1924). See Petition for Writ of Mandate, *Knight*, 3.

116. *Ibid.*

117. Opinion, June 2, 1924, 6. California State Archives.



They affirmed Alice's position as a protected citizen since her family paid taxes and had never lived on a reservation.<sup>118</sup> The court acknowledged the fact that Alice's parents at this time belonged only to a group called "California Indians," having never belonged to any tribe recognized by the United States government and never residing on a reservation.<sup>119</sup> The justices conceded that a national school system was not authorized by the US Constitution, but they also addressed the fact that the education at the government day school was not equal to that provided by the public school district, in part because the state and district had no control over the day school's educational programs, finding that the intent of the separate schooling amendment was for the state to provide facilities over which it held jurisdiction.<sup>120</sup> The justices remarked in their closing opinion that the burden of taxes and the education of children of taxpaying citizens (whether white or Indian) was one to be determined by the legislature and not the courts, concluding that the "petitioner is entitled to be received as a pupil into the school conducted by the governing body of the school district in which she is a resident and a citizen. The writ will therefore issue."<sup>121</sup>

#### IN THE AFTERMATH

The original response from the Commissioner's office in Washington to the recommendations of Supervisor Coon and Superintendent Parrett for the payment of tuition for Indian children attending public schools is not archived. However, in a fall 1924 letter from the Commissioner, the Indian Office indicates that "payment shall not be made under this authority for any pupil having less than one-quarter Indian blood, or if such pupil or his parent are...owners of taxable real property within the public school district."<sup>122</sup> In a single sentence, the Commissioner invokes both the ruling of the California State Supreme Court that children of taxpayers shall be treated as full citizens eligible under their own right for attendance at the public schools

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118. *Ibid.*, 8–9. Under the 1887 Dawes Act (24 U.S. Stats. 390) provisions for Indians becoming recognized as United States citizens included the taking up of residence apart from the Indian tribe and adopting the habits and customs of 'civilized life.'

119. *Ibid.*, 9.

120. *Ibid.*, 2, 5–8, 10.

121. *Ibid.*, 11–12.

122. Commissioner to Parrett, October 11, 1924.

and the blood quantum indicator that would eventually become the center of Indian identity conflicts in the coming decades.<sup>123</sup>

Unlike the outcome in Big Pine, where all Indian children were admitted into the public school following the *Piper* decision, Virgilia Knight was the only Indian child to attend public school in her region for several years following the successful 1924 court decision.<sup>124</sup> It wasn't until 1927, when the Yokayo Rancheria School had to be closed for low attendance—an affliction of many government-run day schools of the 1920s—that the Carroll School accepted other Indian children from throughout Ukiah despite their status as non-taxpaying citizens.<sup>125</sup>

In 1928, Alice and her family, along with other Indians in the Owens Valley, were counted on Nevada's Walker River Agency census roll (No. 852)<sup>126</sup> following the Act of May 18, 1928, authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California,<sup>127</sup> keeping private attorneys out of subsequent legal actions for Indian rights. This act also established federal recognition of California Indians as belonging to a specific tribe rather than under the generic label. At the time when she applied for enrollment at the age of twenty, Alice was away from home, attending high school in Los Angeles, taking advantage of expanding educational opportunities for Native American students, but she continued to make her home with her father when school was not in session.<sup>128</sup>

Although Alice Piper's struggle to receive admittance to the public schools in Inyo County, California, lasted only a single year, it is clear

123. For discussions of the history and politics of blood quantum policies, see Jack Forbes, *Africans and Native Americans: The Language of Race and the Evolution of Red-Black Peoples* (Urbana: University of Illinois Press, 1993); Eva Marie Garrouette, *Real Indians: Identity and the Survival of Native America* (Berkeley: University of California Press, 2003); Bonita Lawrence, "Real" Indians and Others: Mixed-Blood Urban Native Peoples and Indigenous Nationhood (Lincoln: University of Nebraska Press, 2004); Parker Nielson, *The Dispossessed: Cultural Genocide of the Mixed-Blood Utes: An Advocate's Chronicle* (Norman: University of Oklahoma Press, 1998); Marijo Moore, *Genocide of the Mind: New Native American Writing* (New York: Nation Books, 2003); William Unrau, *Mixed-Bloods and Tribal Dis-solution: Charles Curtis and the Quest for Indian Identity* (Lawrence: University Press of Kansas, 1989).

124. Patterson, *Virgilia Knight*, 10.

125. Ibid.

126. Application for Enrollment. Application No. 5335. United States Department of the Interior, Office of Indian Affairs.

127. U.S. Seventieth Congress, Session I, Chapter 624, 1928. [H.R. 491] [Public, No. 423].

128. Application for Enrollment. Application No. 5335. United States Department of the Interior, Office of Indian Affairs.

that the Owens Valley Paiute Shoshone fought against racial prejudices, a changeable Political Code, and local school administrations protecting operating budgets for a much longer time. Although the schools were content with allowing Indian children to attend under lucrative contracts with the federal government, once appropriations ran out and Bureau regulations changed, they began to deny admittance even to children with a legal right to attend public school. The court's decision in the *Piper* case firmly enforced the positions of Attorney General Webb and State Superintendent of Instruction Wood that the children of taxpaying Indians were exempt from the amended Section 1662 of the California Political Code and could legally, without contract agreements, avail themselves of a public education. In districts where the state had established no separate school, these children must be allowed to attend the regular public school. The case did not extend to Indian children living on lands where the government held title or held the title in trust for Indians nor to those living on lands either in the public domain or where title was held by someone other than a taxpaying Indian family. Thus it appears that those children might still be compelled to attend local government schools.

The final article that appears in an Inyo County newspaper regarding the action reflects enduring racial tensions over the matter of allowing Indian children into "white" schools.<sup>129</sup> An article in the *Owens Valley Herald* reported in September 1924 that, after more than two weeks of deliberations over the matter, the trustees of the Bishop grammar school had allowed Indian children to enroll in light of the test of the law that had occurred in Big Pine the prior school year and despite the protests of white parents.<sup>130</sup> How their white peers and teachers received the children remains unknown. In her account of the event years later, Robinson says that when the Indian children began attending the public school, the day school buildings were abandoned and the land was transferred to the Forest Service.<sup>131</sup> That agency subsequently sold the school building and used the teacherage as the home and office of the district ranger; in 1946, it was being used as the ranger station garage.<sup>132</sup>

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129. *Owens Valley Herald*, September 17, 1924, 1.

130. *Ibid.*

131. *Inyo Independent*, May 10, 1946, 1.

132. *Ibid.*

After this time, the problem of Indian education appears to have disappeared from the public purview in Inyo County. Despite the silence following the court's decision, readings of the news reports, letters between Indian education officials, the briefs filed in the *Piper v. Big Pine* case, and the educational code itself<sup>133</sup> attest to the intensity with which the local community felt this conflict. These sources reveal the racial conflicts of the region, the efforts of local officials to maintain Indians as second-class citizens, the prioritizing of budget concerns over children's welfare, and the struggle of a few brave individuals to overcome these challenges.

The cases allowing Alice Piper and other Native American students into the public schools in Big Pine and the admittance of Virgilia Knight into a Ukiah area school were limited decisions. They confirmed the right of Indian children not living on the reservations and coming from taxpaying homes to be allowed access to a public education. Just two years after the *Piper v. Big Pine* decision, the United States government, in response to the compelling criticisms of Bureau of Indian Affairs policies by Indian rights activist John Collier, commissioned the Merriam report.<sup>134</sup> The report attributed the government's failure in Indian education to inadequate funding for qualified personnel and an undefined, poorly planned educational program. It is hailed as the first formalized call to drastically change Indian education policies nationwide.<sup>135</sup> In that same year, a family with a child of mixed Eskimo and white descent filed for a petition of a writ of mandate against an Alaskan school district for discrimination based on the Fourteenth Amendment and Congress's 1905 Nelson Act, which outlined a school system that included children of mixed descent.<sup>136</sup> In *Jones v. Ellis* (1929), like the Piper and Knight

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133. Originally, the various codes were under a single "political code." In 1929, when the California Code Commission was established, the various types of codes began to be separated. By 1953 the independent Codes were all in existence, including the "education code."

134. Collier moved to California in 1921 as a teacher in San Francisco schools, already familiar with the threats to Indian culture. He lobbied for the repeal of the Indian General Allotment Act of 1887 and generally against federal policies that denied Indians land claims. Collier would go on to lead as the Commissioner of Indian Affairs from 1933 to 1945, introducing the Indian Reorganization Act and the Johnson-O'Malley Act in 1934.

135. Brookings Institution, *The Problem of Indian Administration: Report of a Survey Made at the Request of Honorable Hubert Work, Secretary of the Interior, and Submitted to Him, February 21, 1928* (Baltimore, MD: The Johns Hopkins Press, 1928). Summary of findings on education, pages 11–15, 32–37, and 53.

136. *Jones v. Ellis et al.*, 8 Alaska 146 (1929).

outcomes, the federal district court ruled in Irene Jones's favor, and she was admitted to the public school within the territorial school system.<sup>137</sup> The court's decision came after Irene's attorney argued that a school board did not have the power to override a state legislature or federal law, so the local school board's attempt to discriminate on race was invalid and further established that territorial school officials could not segregate schools.<sup>138</sup> In 1930, Congress authorized contracts with local school boards across Alaska in an effort to end segregation of non-taxpaying Indian children, hoping this action would eliminate racial barriers to attending school.<sup>139</sup> By 1933, federal monies appropriated for public school enrollment of Indians nationwide rose to \$600,000—more than the 1929 post-Merriam-report level by one-third and more than three times the 1923 allocations.<sup>140</sup>

Section 8003 of California's Education Code was amended in 1935 to except Indians from the continuing school segregation for other minority students. It read, "Any school district may establish separate schools for Indian children, excepting children of Indians who are wards of the United States Government and children of all other Indians who are descendants of the original American Indians of the United States,"—a roundabout way of stating that all Indian children, whether from taxpaying or reservation families, as long as their ancestors' native roots were on US soil—could attend local, integrated public schools.<sup>141</sup> In 1945, in their successful suit against the Westminster, Garden Grove, Santa Ana, and El Modena school districts, five Mexican American parents challenged the separate schools policies of Orange County, California, and cited the *Piper v. Big Pine School District of Inyo County* decision.<sup>142</sup> Following the

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137. Nelson Act of January 27, 1905 (PL 26, January 27, 1905).

138. *Opinion*, November 29, 1929, Jones v. Ellis; United States Department of the Interior, *Opinions of the Solicitor of the Department of the Interior Relating to Indian Affairs, 1917–1974* (Buffalo, NY: William S. Hein & Co., 2003), 1775.

139. David H. Getches, *Law and Alaska Native Education: The Influence of Federal and State Legislation upon Education of Rural Alaska Natives* (Fairbanks, AK: Center for Northern Educational Research, 1977), 43.

140. Adams, *American Education*, 71.

141. Cal. Educ. Code § 8003, quoted in *Mendez v. Westminster Sch. Dist.*, 64 F. Supp. 544, 548 (S.D. Cal. 1946).

142. *Mendez et al. v. Westminster School District et al.* 64 F. Supp. 544 (C.D. Cal. 1946). For further discussion about the segregation of Mexican American students and California schools, see David Torres-Rouff, "Becoming Mexican: Segregated Schools and Social Scientists in Southern California, 1913–1946," *Southern California Quarterly* 94 no. 1 (Winter 2011/2012): 91–127.

decision against the school districts, Governor Earl Warren signed into law the Anderson Act repealing Sections 8003 and 8004 of the California Education Code in 1947, fully eliminating segregationist language for children of any descent. Governor Warren would go on to be the Chief Justice who, seven years later, authored the United States Supreme Court opinion in *Brown v. Board of Education*.

Today, there are few government boarding schools still maintained by the Bureau of Indian Education.<sup>143</sup> Although some Indian children still attend the schools, abundant policy changes have made the schools sites of cultural exchange and refuge from nearly all-white campuses. However, despite the continued existence of these federally funded Indian schools, nearly all Indian children today are educated in the public school system.<sup>144</sup> As this paper shows, the active resistance of Indian families such as the Pipers (Paiute) and the Knights (Pomo) to inequitable educational policies in the early twentieth century paved the way for positive changes throughout the American (and, specifically, American Indian) educational system.

143. The Bureau of Indian Education was formed in 2006. The only remaining school maintained and operated by the Bureau of Indian Education in California today is Sherman Indian High School in Riverside. The San Jacinto 6<sup>th</sup> through 12<sup>th</sup> grade Noli School is funded, but not operated, by the BIE.

144. US Department of Education, National Center for Education Statistics, Common Core of Data (CCD), "State Nonfiscal Public Elementary/Secondary Education Survey," 2009–2010, v.1b. shows 638,534 students identifying as American Indian or Alaska Native enrolled in schools [i.e. public and private, non-BIE] across the country. In California alone, almost 95% of all K–12 Native students were enrolled in public schools according to the U.S. Department of Education, National Center for Education Statistics, "Private School Universe Survey (PSS)" and "Public Elementary/Secondary School Universe Survey," 2009–2010.

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