

**Opinion No. 542****Intoxicating Liquor—Indians, Sale to  
—Liquor.**

HELD: Under Federal Law, no one may sell intoxicating liquor to Indians, including mixed bloods, who are wards of the Government; and this law applies off as well as on reservations.

But an Indian not a ward of the Government and not maintaining tribal relations may buy liquor as freely as whites.

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June 2, 1934.

You submit the following: "Some of our vendors are in a quandary regarding the sale of liquor to Indians. I wish you would give us an opinion relative to the Federal Acts covering this subject: whether it would be legal to sell liquor to an Indian who is not a Government ward, and whether or not a Breed is considered by the Government the same as an Indian."

Chapter 109, page 506, United States Statutes of the 54th Congress, 1897, provides in part as follows:

"That any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous, or vinous liquor, including beer, ale and wine, or any ardent or other intoxicating liquor of any kind whatsoever \* \* \* to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian Superintendent or agent, or any Indian, **including mixed bloods**, over whom the Government through its department, exercises guardianship, and any person who shall in-

introduce or attempt to introduce any malt, spirituous, or vinous liquor, including beer, ale and wine, or any ardent or intoxicating liquor of any kind whatsoever into any Indian country, which term shall include an Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be punished, \* \* \*."

We think this statute answers both your questions. An Indian whose title to allotted land has not been extinguished; one who is in charge of an Indian Superintendent or agent; and one over whom any department of the Government exercises guardianship, is, obviously, a ward of the Government. Any one who sells any intoxicating liquor to such an Indian incurs the penalty provided for such offense. Any Indian not a ward of the Government and not maintaining tribal relations may buy liquor as freely as whites. Such Indians come under the control of the State the same as other persons.

It will be noted that the statute applies to mixed as well as full blood Indians if the mixed bloods are wards of the Government.

If an Indian is a ward of the Government it is as much a crime to sell liquor to such ward off the reservation or outside "Indian Country" as it is to sell on the reservation or in "Indian Country." *Territory v. Guyott*, 9 Mont. 46. The Federal decisions are to the same effect.