

Indians, Inspection of Traction Engines Belonging To. Boiler Inspector, Power Of to Inspect Traction Engines Belonging to Indians. License, With Reference to Operating Steam Boilers Belonging to Indians.

The state has no control or power of government over Indians as long as they maintain their tribal relations; they are wards of the government, and as long as they are under the supervision and direction of the United States, the laws of the state do not extend to them, and while this relation exists the state boiler inspector has no power to inspect traction engines belonging to Indians, or to require them to obtain a license for operating a boiler.

September 14, 1911.

Hon. J. H. Dailey,
State Boiler Inspector,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 26th of August, 1911, requesting my official opinion as to whether or not traction engines belonging to Indians are subject to inspection under the laws of this state:

1st: Where they are situated and being operated on government reservations, the owner thereof being an Indian and not having received a patent from the government for his land; and

2nd: Where they are situated and operated on government reservations the land having been patented to an Indian who is the owner of the traction engine.

In reply I will say that the state has no control, power or government over Indians as long as they maintain their tribal relations.

United States v. Kagama, 118 U. S. 375.

Indians of the country are considered as wards of the general government, and whenever the United States sets apart any land of its own as an Indian reservation, it has full authority to pass such laws and authorize such measures as may be necessary for their government and protection both as to their persons and property, and the state, so far as the persons and property of the Indians are concerned, has no jurisdiction over them.

United States v. Thomas, 151 U. S. 577;

United States v. Kagama, 118 U. S. 375.

The fact that land has been patented to an Indian does not prevent him from still being a ward of the government and where he still resides on the reservation set apart by the United States government for him he is still under the supervision and protection of the United States, and the laws of the State do not extend to him. He does not pay taxes; his property is not subject to the control of the state, and the state owes him no duty of protection, and therefore has no jurisdiction over him.

However, when the United States government grants to the Indian

the privilege of citizenship, and gives to him the benefit of, and requires him to be subject to the laws, both civil and criminal, of the state, it places him outside the police protection of the government, and he is then governed by and subject to the laws of the state of which he is a citizen.

Matter of Heff, 197 U. S. 489.

In answer to each of the foregoing questions, I will say that you have no jurisdiction over an Indian or his property while he is living upon an Indian reservation and is a ward of the United States government.

This rule, of course, does not apply to persons other than Indians living upon an Indian reservation.

Yours very truly,

ALBERT J. GALEN,

Attorney General.