

Charity, Appropriation for. Appropriation for Charitable or Benevolent Purposes, Constitutionality of. Constitutionality, of Appropriation for Charitable or Benevolent Purposes.

It is not constitutional for the legislature to make an appropriation of the state's money to a corporation organized for charitable or benevolent purposes, unless such corporation is under the absolute control of the state.

January 27th, 1913.

Hon. W. R. King,

Chairman Committee on Public Morals, Charities and Reforms.

Dear Sir:

I acknowledge receipt of your communication to the following effect:

"Is an appropriation to pay money to any society or societies which are or may be incorporated under the laws of this state for the purpose of finding good homes for homeless children, constitutional?"

I assume that the corporations to which you refer are such corporations as might be organized under the laws of this state as "social or benevolent" corporations. Such corporations so organized may determine the qualifications of members, method of election and terms of admission and may elect necessary officers, adopt by-laws, etc.

Secs. 4224-4228, inclusive, Revised Codes.

Such a corporation, of course, is not under the control of the state.

I call your attention to Sec. 35 of Art. V of the Constitution of Montana, providing:

"No appropriation shall be made for charitable, industrial, educational, or benevolent purposes to any person, corporation or community not under the absolute control of the state, nor to any denominational or sectarian institution or association."

The above provision of the constitution forbids the appropriation of money out of the state treasury to any corporation not under the control of the state, and, therefore, it is not constitutional for the Legislature to make an appropriation of the state's money to a corporation organized under the law of this state for charitable or benevolent purposes such as suggested in your communication.

People v. San Joaquin Valley Agr. Assn. 151 Cal. 797, 91 Pac. 740.

Board v. Nye, 97 Pac. 208.

The same purpose, however, might be accomplished by placing  
the corporation

“under absolute control of the state.”

Board v. Nye, Supra.

People v. San Joaquin Valley Agr. Assn., Supra.

Very truly yours,

D. M. KELLY,  
Attorney General.