

Opinion No. 45.**Relief—Montana Relief Commission
—Indians.**

HELD: The Montana Relief Commission is not authorized to use funds appropriated by Chapter 56, Laws of the Extraordinary Session, 1933-34, to furnish relief to those Indians who are wards of the Federal Government.

February 16, 1935.

Dr. W. J. Butler
State Administrator
Montana Relief Commission
Helena, Montana

You have asked us to advise you if the Montana Relief Commission is authorized to use funds appropriated by Chapter 56 of the Extraordinary Session Laws of 1933-34, to furnish relief to those Indians who are "wards of the Federal Government."

Chapter 56, *supra*, provides: "The funds herein appropriated shall be administered by the Montana Relief Commission under the authority and provisions of Chapter 20, of the Laws of the Extraordinary Session of 1933, and under the same rules and regulations provided by such Commission for the administering of Federal Relief Funds, and for providing means of employment for the unemployed * * *."

Chapter 20 of the Extraordinary Session Laws of 1933-34, makes it the duty of the Montana Relief Commission to administer the Emergency Relief Fund "in such manner as to effectuate the purpose of this act as herein set forth" in Section 1 of the Act, which is as follows: "There is hereby created a state institution to be known as Emergency Relief, the purpose of which shall be to provide means for the sustenance of life and the relief of distress among people of the state whom economic conditions, industrial inactivity, or other cause over which they have no control has deprived of support."

It is exceedingly difficult for us to understand how those Indians who are "wards of the Federal Government" (31 C. J. 492), altho residing within this state, could be considered persons in distress "whom economic conditions, industrial inactivity or other cause * * * has deprived of support."

Sections 91 to 163, inclusive, 25 U. S. C. A., provide in elaborate detail for the distribution of annuities, provisions, goods and supplies to the Indians under the supervision of the Secretary of the Interior and the Bureau of Indian Affairs. A broad mantle of protection has been covered over them by Congress, which has assumed from the beginning, the duty of exercising a general supervision over their affairs and protecting them not only from the encroachments of the whites, but also from the consequences of their own ignorance and improvidence. (31 C. J. 493, and cases cited in note 25.)

While it is true that some may say that the provisions made by the Federal Government in its role as guardian, are not adequate or satisfactory, we do not believe that it was ever within the intention of the legislature to authorize the Montana Relief Commission to gratuitously give such persons an additional largess. If the time comes when the Federal Government shall abandon its wards to let them fend for themselves, or, if the time should come when the Federal Government is no longer able to provide for them, at such time we think that the Montana Relief Commission would be authorized to include such Indians among its beneficiaries.

Until that time comes, however, it is our opinion that your question must be answered in the negative. (13 Report and Opinions of Attorney General, p. 11; State v. Big Sheep, 75 Mont. 219, 243 Pac. 1067; State v. Phelps, 93 Mont. 277, 19 Pac. (2) 319; U. S. v. Kagama, 118 U. S. 375, 6 S. Ct. 1109, 30 L. Ed. 228; In re Lelah-puc-ka-chee, 98 Fed. 429; People v. Daly, 212 N. Y. 183, 105 N. E. 1048; Rubi v. Mindoro Provincial Board, 39 Philippine 660.)