

Opinion No. 9.**Old Age Pensions—Indians.**

HELD: Where an Indian, after he has received his patent in fee from the government, is in the charge of an Indian Superintendent or agent, or is an Indian over whom any department of the government of the United States exercises guardianship, such Indian is not eligible for pension under the Montana Old Age Pension Act.

December 29, 1936.

Mr. L. D. French
County Attorney, Lake County
Polson, Montana.

Dear Mr. French:

We have your request for an opinion which reads as follows:

"The County Commissioners of Lake County have requested me to obtain an opinion from your office as to when an Indian in a Reservation ceases to be a ward of the Government and should be considered only as citizen of the United States.

We have several Indians of this Reservation who have received patents to their land several years ago.

Mr. Shotwell, the Superintendent of this Reservation, has held several times that such Indians if their names appeared on the Tribal rolls, were still wards of the Government and as such were not amenable to the State Game Laws, that they could hold personal property as wards of the Government free and exempt from State laws: that they retained their tribal rights and preferences as to employment but that when such Indians came on relief, they were not wards of the Government but must be cared for by the Counties and would be given pensions under the Old Age Pension Law if they have the age qualifications.

This matter has come up on several Old Age Pension applications and after having been referred to the State Old Age Pension Commission have been referred back to the Counties.

We have several specific cases here when patented Indians whose names are on the Tribal rolls are seeking Old Age Pensions and the Commissioners would like a definite ruling on this matter."

We have on other occasions held that when an Indian receives a grant in fee he no longer is a ward of the Government. However, if, even after that Indian receives a grant in fee, he is in the charge of an Indian superintendent or agent, or is an Indian over whom any department of the government of the United States exercises guardianship, he is, in our opinion, a ward of the United States Government.

We note in your request that Mr.

Shotwell, the superintendent of the Flathead Reservation, has held several times that Indians who have received patents to their lands, remain wards of the Government of the United States if their names appear on the Tribal Rolls, and are wards of the United States Government if, even though they have patents in fee to their lands, they hold personal property as wards of the United States Government free and exempt from state laws.

Since Mr. Shotwell, the representative of the United States Government, considers the Indians that you have in mind in your request as wards of the United States Government, we are of the opinion that such Indians are not eligible for old age assistance grants in the State of Montana. We feel that Mr. Shotwell should know as well as, if not better than anyone else in the State of Montana what Flathead Indians are wards of the United States Government.