

Opinion No. 199.

**Public Welfare—Residence—Federal
Reserve Land—Indians.**

HELD: One may establish a state or county residence for purposes of relief while residing on lands within the geographical boundaries of the state or county, title to which is in the Federal Government.

February 13, 1940.

Mr. Fredric R. Veeder
Director of Public Assistance
Department of Public Welfare
Helena, Montana

Dear Mr. Veeder:

You have requested my opinion as to whether or not one may establish a residence in the State of Montana for the purpose of relief while residing on Federal Reserve Land such as an Indian Reservation. The question arises in connection with persons employed on the Boneau Dam Project in Hill county.

I am advised by Mr. Oscar Hauge, county attorney of Hill county, that the Boneau dam and the reservoir which it will make are located on the original Rocky Boy's Reservation, and therefore Federal Reserve lands wholly. All the land embraced within this reservation is within the geographical boundaries of the State of Montana, and within the geographical boundaries of the County of Hill.

Section 5, Article X, of the State Constitution provides that, "the several counties of the state shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society." It will be noted that the language used is "for those inhabitants," of the state. To inhabit means, to live or dwell in; to occupy as a place of settled residence or habitat; to have residence in a place; to dwell; abide." See Webster's International Dictionary.

In accordance with this mandate of the constitution, the legislature established the means of providing for the inhabitants of the state through the enactment of the Welfare Act. It was unquestionably the intention of the legislature that all those inhabitants meeting the qualifications set out in that act, should have the benefits therein provided. It cannot be said that those persons who inhabit or live on land within the geographical bounds of the state, title to which is in the Federal Government, are not inhabitants of the state.

The Supreme Court, in the case of *State ex rel Williams v. Kamp, et al.*, 106 Mont. 444, held that Indians residing within the boundaries of the state were entitled to all forms of assistance provided for by the Welfare Act. It recognized Indians living on federal reserve land as inhabitants and residents of the state. Indians are citizens of the United States and of the State of Montana and have the

right to vote and hold office. The state recognizes their residence on federal reserve land as qualifying them for the franchise. See *State v. Big Sheep*, 75 Mont. 219.

Can it be logically said that an Indian living on federal reserve land is a resident of or residing within the State of Montana, but that a person of another race is not? I think not.

It is therefore my opinion, that for the purposes of relief one may gain a residence while residing or living on land within the geographical boundaries of the State or a county thereof, title to which is in the United States Government.

Insofar as ward Indians are concerned, the question of county residence for the purpose of general relief will not arise, for the reason that the state, and not the county, is liable for general relief to ward Indians. In those cases, however, the county where the Indian applies for general relief is obliged to take his application and make the necessary investigation and decide on the amount of the grant, certifying the same to the State Department. See *Williams v. Kamp*, supra.