

"The Apprenticeship Council received an appropriation from the Legislature of \$1,000.00 per year for its operation. The Veterans' Welfare Commission received an appropriation of \$200,000.00 per year for its work.

"The Apprenticeship Council has advised the Veterans' Welfare Commission that they now have approximately 1400 veterans in training on apprenticeable trades. Nearly 900 of these are without a proper program and without proper supervision because of lack of funds. The Apprenticeship Council has requested the Veterans' Welfare Commission to assume the financial responsibility to allow them to set up their apprenticeship training and to resurvey all establishments heretofore approved for apprenticeship training. They have requested that the Veterans' Welfare Commission earmark and set aside \$20,633.60 for a period of November 1, 1946 to February 27, 1947. The following conditions were submitted by the Apprenticeship Council to the Veterans' Welfare Commission in connection with this requested expenditure:

"1. That all personnel required to resurvey establishments and places at present training apprentices, be under the absolute supervision and control of the Apprenticeship Council, Council to choose the field officers for this work;

"2. That the Budget submitted be accepted without change.

"3. That if approval is granted that the sum requested be earmarked so that it cannot be cut off or later disallowed."

In addition to the facts you have set out and which I have quoted above, your Commission has informed me orally the Apprenticeship Council cannot guarantee to the Veterans' Welfare Commission some persons other than veterans might be aided or assisted under the above outlined program.

The Veterans' Welfare Commission of the State of Montana is governed by the provisions of Chapter 111 of the Laws of 1945. Section 2 of that Chapter provides in part:

"It shall be the duty of the commission and it shall have power to

Opinion No. 227.

Funds, Transfer of—Veterans Welfare Commission—Apprenticeship Council.

Held: The Veterans' Welfare Commission may not expend or authorize the expenditure on its behalf of funds which may be used for any purpose other than the welfare and affairs of veterans and their families. The Veterans' Welfare Commission—b r o a d though its powers are—may not exercise the legislative power of appropriating money to other departments.

December 14, 1946.

Mr. Charles Davidson, Chairman
Veterans' Welfare Commission
State of Montana
Great Falls, Montana

Dear Mr. Davidson:

You have informed this office the Montana Apprenticeship Council has sought aid from your Commission for the purpose of resurveying approximately 1400 veterans in training on apprenticeable trades. I quote from your letter which sets forth your problem in detail:

establish a state wide service for discharged veterans and their families; to actively cooperate with state and federal agencies having to do with the affairs of veterans and their families; and to promote the general welfare of all veterans and their families. In carrying out the purposes of this act the commission may employ a director, service officers, assistants, clerks, or other personnel, all of whom must be residents of the State of Montana, prescribe their duties and fix and pay their compensation; and establish a state headquarters and such other offices as may be necessary to carry out the purposes of this act."

Admittedly, the power which the Veterans' Welfare Commission has is broad—it may "actively cooperate with state and federal agencies having to do with the affairs of veterans and their families" and it may "promote the general welfare of all veterans and their families." However, it seems to me the request which your Commission has received from the Apprenticeship Council amounts to considerably more than "cooperation." The proposition presented to you by the Apprenticeship Council in effect is little more or less than a request for an additional appropriation to another state department rather than to the legislative assembly. According to the information you have transmitted the Apprenticeship Council conditions its request for funds on the proposition it alone shall choose the field officers for the resurveying work and such field officers shall be under the absolute supervision and control of the Council. Chapter 111, *supra*, requires employees of the Veterans' Welfare Commission must be veterans.

The Apprenticeship Council's condition to the effect its budget as submitted must be accepted without change deprives the Veterans' Welfare Commission of the exercise of any discretion regarding the program contemplated; and the condition to the effect the sum requested must be earmarked so that it cannot later be cut off or disallowed likewise seem to me to interfere with the discretion ordinarily accorded to a state agency in administering its affairs. It is contrary to the basic principles of democratic government for state departments, commissions, boards or bureaus to transfer funds among them-

selves with promiscuity. 59 *Corpus Juris* 232 states:

"Where a special fund is created or set aside by statute for a particular purpose or use, it must be administered and expended in accordance with the statute, and may be applied only to the purpose for which it was created or set aside, and not diverted to any other purpose, or transferred from such authorized fund to any other fund."

Our Supreme Court expressed itself on a somewhat similar problem: See in the case of *State ex rel. Browning v. Brandjord, et al.* (1938), 106 *Mont.* 395, 81 *Pac.* (2d) 677. Under Chapters 82 and 85 of the Laws of 1937 the State Board of Public Welfare was empowered to cooperate with the federal government and to enter into contracts and leases with the federal government and to carry out the purposes of the act—namely, to insure the institution and completion of projects reasonably designed to furnish relief to the unemployed in the form of work. At page 403 of the Montana report, the Court used this language:

"This board is bound to supervise the expenditure of the funds appropriated by the state for its use. When the board delivers funds to the federal agency to be expended by it for materials to be thereafter purchased, and for use on projects to be thereafter selected, it is not administering or supervising the expenditure of these funds."

Since Chapter 111, Laws of 1945, grants broad powers to the Veterans' Welfare Commission, it does not seem improbable some effective means of cooperation may be established so that the Apprenticeship Council and the Veterans' Welfare Commission may work together in this very laudable enterprise. However, Chapter 111 demands the work of the Veterans' Welfare Commission must be solely for the benefit and welfare of veterans and their families. House Bill No. 297 of the 29th Legislative Assembly of 1945—the appropriation bill providing money for the Veterans' Welfare Commission operations for the period beginning July 1, 1945, and ending June 30, 1947—declares in Section 4 thereof, all appro-

priations contained therein shall be used for the purposes designated and no other.

It is therefore my opinion:

1. The Veterans' Welfare Commission may not expend or authorize the expenditure on its behalf of funds which may be used for any purpose other than the welfare and affairs of veterans and their families.

2. The Veterans' Welfare Commission—broad though its powers are—may not exercise the legislative power of appropriating money to other departments.

Sincerely yours,

R. V. BOTTOMLY,
Attorney General

