

VOLUME NO. 37

OPINION NO. 90

UNEMPLOYMENT COMPENSATION ACT - Applicability on Indian Reservations; INDIANS - Applicability of Worker's Compensation Act on Indian Reservation; 37 OP. ATT'Y GEN. NO. 28 (1977).

HELD: The Montana Unemployment Compensation statutes do not apply to Indian businesses conducted within the Blackfeet Indian Reservation.

17 November 1977

John P. Moore, Esq.
Glacier County Attorney
Glacier County Courthouse
Cut Bank, Montana 59427

Dear Mr. Moore:

You have requested my opinion on the following question:

Are the Montana Unemployment Compensation laws applicable to businesses owned and operated by duly enrolled members of the Blackfeet Tribe within the Blackfeet Indian Reservation?

A comprehensive parallel and controlling opinion was issued earlier this year concerning the Montana Worker's Compensation Act. 37 OP. ATT'Y GEN. NO. 28 (1977). The cases and rationale supporting my opinion that the Worker's Compensation Act does not apply to Indian businesses conducted within the Reservation apply equally to the question you present. Therefore, I will not repeat the discussion.

Subsequent to issuance of that opinion the United States Supreme Court denied certiorari in a case decided by the Montana Supreme Court involving property located on an Indian reservation. Little Horn State Bank v. Stops, Mont., 555 P.2d 211 (1976), cert. denied, 97 S.Ct. 2198 (1977). However, even a cursory examination of the facts and holding of that case discloses its inapplicability to either the Worker's Compensation or Unemployment Compensation situation.

In Stops the Indian defendants conceded state court jurisdiction over the civil suit arising from an off-reservation business transaction, Id. at 212. The sole question was whether a state court which had jurisdiction and entered a valid judgment could enforce that judgment against the defendants' property located within their reservation. Id. at 212. The court held that it could. Id. at 215. Stops thus clarified the enforcement powers of state courts having jurisdiction. It did not address the state's power to exercise jurisdiction in the first instance and consequently does not affect my earlier opinion.

THEREFORE, IT IS MY OPINION:

The Montana Unemployment Compensation Statutes do not apply to Indian businesses conducted within the Blackfoot Indian Reservation.

Very truly yours,

MIKE GREELY
Attorney General