

the incidents of assignment so as to establish conclusively that an assignment hereafter made will or will not be a conveyance of an interest in land. Apparently no bylaws or ordinances have been adopted on this question, and reliable evidence of the unwritten custom of the pueblo is not before me.

It would be entirely improper for me to attempt to apply the general principles, above set forth, to an imaginary assignment that may be made to an imaginary Indian under an imaginary ordinance that has not yet been passed. When an actual assignment is made or proposed and the bylaws, ordinances, unwritten customs or expressed intentions of the parties which bear upon the issues above presented are laid before me, I shall be glad to render an opinion on the question of whether such assignment involves a conveyance of an interest in land and is therefore invalid without prior Secretarial approval.

The foregoing discussion however should make clear the right of the pueblo to grant a mere license for the use of lands to the members of the pueblo. It should be equally clear, under the principles above set forth, that the pueblo lacks power to grant more than a mere license and that any oral transaction or written instrument purporting to grant an interest in land valid against the pueblo itself or against third parties would be void at law and in equity.

FREDERIC L. KIRGIS,
Acting Solicitor.

LICENSING POWER OF STATE OVER
CALIFORNIA RANCHERIA DOG OWNERS

M-28958

April 26, 1939.

The Honorable,
The Secretary of the Interior.

MY DEAR MR. SECRETARY:

My opinion has been requested regarding the jurisdiction of the State of California in connection with the compelling of Indians residing on areas, known as rancherias, within the State to take out licenses for dogs owned by them.

In my opinion the State of California is without jurisdiction to enforce such a requirement.

The areas with which we are concerned are tracts of land of from 25 to 75 acres located within Sonoma County of the State of California, owned by the United States and purchased for the use of

landless Indians in California with funds appropriated by Congress. See acts of June 21, 1906 (34 Stat. 325, 333), and April 8, 1908 (35 Stat. 70, 76). These areas have been assigned to and are now occupied by certain designated bands of Indians. They are, for all practical purposes, small reservations. Since the decision of the Supreme Court of the United States in the case of *United States v. McGowan*, 302 U.S. 535, moreover, there can be no question but what the specified areas are "Indian country." The conduct and activities of Indians within "Indian country" are not subject to the laws of the several States, the jurisdiction of the Federal Government in this respect being exclusive and plenary. *United States v. Kagama*, 118 U.S. 375; Solicitor's Opinion of October 25, 1934, 55 I.D. 14, 57-58.

It is my opinion, therefore, that the State of California, and its political subdivisions, are without jurisdiction to compel Indians residing on rancherias within the State to obtain licenses for dogs owned by them and confined on the reservations.

FREDERIC L. KIRGIS,
Acting Solicitor.

Approved: April 26, 1939.

OSCAR L. CHAPMAN, *Assistant Secretary.*

LAW AND ORDER—DUAL SOVEREIGNTY—
POWERS OF INDIAN TRIBES AND U.S.

April 27, 1939.

*Memorandum for the Commissioner
of Indian Affairs:*

The following questions have been put to me in connection with the law enforcement activities of Indian courts, including both the Courts of Indian Offenses under the Departmental regulations and the tribal courts under tribal codes, and of Indian police officers:

(1) May an Indian court exercise jurisdiction over acts committed by Indians on unrestricted lands within an Indian reservation, where the Indians concerned are properly before the court?

(2) May an Indian court exercise jurisdiction over acts committed by Indians on lands outside of an Indian reservation, where the Indians concerned are properly before the court?

(3) May an Indian police officer make arrests on unrestricted lands within an Indian reservation?

(4) May an Indian police officer make arrests outside of an Indian reservation?