

OPINION
57-84

October 30, 1957 (OPINION)

CRIMES

RE: Indians - Jurisdiction of State

It is the opinion of this office that the state's jurisdiction over crimes committed within Indian lands, by or against Indians who have not severed tribal relations, extends only to such offenses as the United States has not assumed jurisdiction to specific criminal law enactments or by virtue of the Assimilative Crimes Act.

Insofar as Gordon Lake is concerned, it appears that the lands surrounding that lake have become Indian lands and the above rule would appear to apply. It appears further that the waters of Gordon Lake are not Indian lands and the state therefore has complete jurisdiction thereover.

The Supreme Court of the state of North Dakota, in the case of State of North Dakota v. Loy, 74 N.D.2d., 182, 20 N.W.2d., 668, has held that paragraph 4 of the Enabling Act vests the title of the land underlying lakes and rivers in the state. We quote from the syllabus as follows:

3. The beds of navigable streams are not 'unappropriated public lands' included within the disclaimer of title by the State of North Dakota, contained in section 4 of the Enabling Act.
4. Title to the lands underlying navigable waters within its boundaries passed to the State of North Dakota upon its admission to statehood.
5. The State of North Dakota has power to, and did, reserve to itself by statute the title to 'Islands and accumulations of land formed in the beds of streams which are navigable.'

Based upon the holding of the Supreme Court, the land underlying Gordon Lake, which we understand is a navigable lake, was vested in the state of North Dakota, and if the state has not disposed of the title thereto, it still possesses the same and has jurisdiction over crimes committed on said land.

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