

Opinion No. 15-1480

March 26, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Robert Cameron, Bernalillo, N. M.

Right of justices of the peace to cause arrest of a Pueblo Indian upon complaint of another Indian.

OPINION

{*63} I have received your letter of yesterday asking me whether you, as justice of the peace, have authority to cause the arrest of a Pueblo Indian and to put him under bond to keep the peace upon the complaint of another Indian. You say that the Indian agent declares that only the federal laws can deal with the Indians and that he stopped you from placing a Santa Ana Indian under bond to keep the peace.

My opinion is that you have jurisdiction upon any such complaint to cause the arrest of the person against whom the complaint is made, and upon a hearing, if the evidence is sufficient, that you should require him to give a bond to keep the peace like any other person. The act of congress under which we were admitted to the Union and our own Constitution, made in pursuance of the requirements of that act, give to congress the absolute jurisdiction and control of the Indian lands and also subjects those lands to the laws of the United States, prohibiting the introduction of liquor into the Indian country. This is as far as the jurisdiction and control of congress extends. There is nothing to be found in the legislation of congress nor in our Constitution that turns over to the federal government the control of the Pueblo Indians as individuals, although strenuous claim is made by the officials of the Indian office that the Indians themselves are in no way subject to the laws of the state.

It is highly desirable that this question should be presented to the courts in such a way as to get a definite adjudication and I advise that you proceed in the matter of the complaint about which you write just as you would if the complaint were made against a {*64} person not an Indian, and we may be able to have the matter brought before the courts so that we can get a definite decision upon this point.