

PUBLIC LAW 280 (1953)

Under Public Law 280, passed by the 83rd Congress in 1953, the federal government transferred jurisdiction to Minnesota and four other states over crimes committed on and civil suits arising on certain Indian reservations located within these states. As a PL 280 state, Minnesota assumed jurisdiction over crimes and certain civil suits arising on all reservations except the Red Lake Reservation.

In an article in the *Minnesota Law Review* in 2008, Professor Kevin K. Washburn described the law's background:

Congress enacted Public Law 280 in 1953 in response to the “complete breakdown of law and order on many of the Indian reservations.” Before Public Law 280 was implemented, criminal jurisdiction over Indian reservations was divided among the state, the tribe, and the federal government, depending upon the nature of the crime and the tribal membership of the victim and perpetrator. Because the federal law enforcement “was neither well-financed nor vigorous, and the tribal courts often lacked the resources and skills to be effective,” the complex jurisdictional structure often practically resulted in the absence of law enforcement on reservations.

Public Law 280 changed the jurisdictional structure of Indian country by granting five (later six) states specific criminal and civil jurisdiction over reservation activities.¹

The most important case involving PL 280 in Minnesota is “*Bryan v. Itasca County*” which arose in state court over a personal property tax levied upon Indians residing on the Leach Lake Reservation. The decision of Minnesota Supreme Court, 228 N. W.2d 249 (1975), upholding the tax was reversed by the United States Supreme Court, 426 U. S. 373 (1976). In “*Bryan*,” the U. S. Supreme Court held that PL 280 granted Minnesota jurisdiction over the Leach Lake tribe but did not confer “general state civil regulatory control over Indian reservations,” including the power to impose taxes on reservation Indians. □

¹ Kevin K. Washburn, “The Legacy of *Bryan v. Itasca County*: How an Erroneous \$147 County Tax Notice Helped Bring Tribes \$200 Billion in Indian Gaming Revenue,” 92 Minn. L. Rev. 919, 930-31 (2008) (citing sources). It is highly recommended.

**PUBLIC LAW 280:
JURISDICTION OVER CRIMINAL OFFENSES AND CIVIL SUITS
ARISING ON INDIAN RESERVATIONS TRANSFERRED TO
MINNESOTA AND OTHER STATES**

67 Statutes at Large, ch. 505, at pages 588-590 (1953)

Public Law 280
CHAPTER 505
August 15, 1953

AN ACT

To confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 18, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1151 of such title the following new item:

"1162. State jurisdiction over offenses committed by or against Indians in the Indian country."

SEC. 2. Title 18, United States Code, is hereby amended by inserting in chapter 53 thereof immediately after section 1161 a new section, to be designated as section 1162, as follows:

"1162. State jurisdiction over offenses committed by or against Indians in the Indian country

"(a) Each of the States listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of

such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

"State of	Indian country affected
California.....	All Indian country within the State
Minnesota.....	All Indian country within the State, except the Red Lake Reservation
Nebraska.....	All Indian country within the State
Oregon.....	All Indian country within the State, except the Warm Springs Reservation
Wisconsin.....	All Indian country within the State, except the Menominee Reservation

“(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

“(c) The provisions of sections 1152 and 1153 of this chapter shall not be applicable within the areas of Indian country listed in subsection (a) of this section.”

SEC. 3. Chapter 85 of title 28, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1331 of such title the following new item:

“1360. State civil jurisdiction in actions to which Indians are parties.”

SEC. 4. Title 28, United States Code, is hereby amended by inserting in chapter 85 thereof immediately after section 1359 a new section, to be designated as section 1360, as follows:

“§ 1360. State civil jurisdiction in actions to which Indians are parties

“(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

“State of	Indian country affected
California.....	All Indian country within the State
Minnesota.....	All Indian country within the State, except the Red Lake Reservation
Nebraska.....	All Indian country within the State
Oregon.....	All Indian country within the State, except the Warm Springs Reservation
Wisconsin.....	All Indian country within the State, except the Menominee Reservation

“(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

“(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.”

SEC. 5. Section 1 of the Act of October 5, 1949 (63 Stat. 705, ch. 604), is hereby repealed, but such repeal shall not affect any proceedings heretofore instituted under that section.

SEC. 6. Notwithstanding the provisions of any Enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil and criminal jurisdiction in accordance with the provisions of this Act: *Provided*, That the provisions of this Act shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes as the case may be.

SEC . 7. The consent of the United States is hereby given to any other State not having jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in this Act, to assume jurisdiction at such time and in such manner as the people of the State shall, by affirmative legislative action, obligate and bind the State to assumption thereof.

Approved August 15, 1953.



REFERENCES

Duane Champagne & Carole Goldberg, *Captured Justice: Native Nations and Public Law 280* (Carolina Academic Press, 2012).

Ada Pecos Melton & Jerry Gardner, “Public Law 280: Issues and Concerns for Victims of Crime in Indian Country,” www.aidainc.net/Publications/pl280.htm.

Tribal Court Clearinghouse, “Public Law 280,” www.tribal-institute.org/lists/pl280.htm

Bryan v. Itasca County, 426 U. S. 373 (1976).
<http://supreme.justia.com/cases/federal/us/426/373/>

Kevin K. Washburn, “The Legacy of *Bryan v. Itasca County*: How an Erroneous \$147 County Tax Notice Helped Bring Tribes \$200 Billion in Indian Gaming Revenue,” 92 Minn. L. Rev. 919-70 (2008). ■

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