

"2. Have the state courts jurisdiction of crimes committed by Indian wards upon lands to which the government has part ownership, such as the city of Polson, or deeded or patented land?"

I find no provision in the statutes authorizing the county treasurer to accept registered county warrants in payment of taxes and in the absence of such provision he has no authority to accept anything in payment of taxes except money. In 61 C. J. 963, Section 1240, the law is stated: "But in the absence of such a restriction, taxes may be paid in any lawful current money, although the collector has no authority to accept anything else unless specially allowed by law." And in Section 1241: "State scrip, county warrants or orders, treasurers' certificates, school district orders, state or municipal bonds or the coupons therefrom, and all other such evidences of indebtedness are not receivable in payment of taxes, unless specifically made so by some constitutional or statutory provision."

Answering your second question, it is my opinion that the state courts have jurisdiction of crimes committed by Indian wards upon land to which the government has parted with ownership. In the case of *State v. Big Sheep*, 75 Mont. 219, 243 Pac. 1067, where the defendant, an Indian ward, was convicted of a misdemeanor committed off the reservation and in the county of Big Horn, the conviction was upheld. It is true that in that case the misdemeanor charged was not made a crime by the laws of the United States, but that fact did not seem to be the determining factor. The court said on page 225: "The justice's court had jurisdiction of the misdemeanor charged if committed within Big Horn county, unless upon land within the exclusive jurisdiction of the United States." And on page 233: "The United States did not attempt nor has it ever attempted, to punish its wards for crimes committed within the limits of a state but outside a reservation. Even before he became a citizen, if an Indian committel a crime within this state, and without his reservation, he was held amenable to our laws, and subject to the jurisdiction of our courts." (See cases cited.) And again on page 234: "Lands to which the United States has parted with title and

Opinion No. 221

Taxation—Taxes, What Constitutes Payment—Registered Warrants —County Treasurer.

HELD: County treasurers have no right to accept anything but money in payment of taxes and have no authority to accept registered county warrants.

Indians—Criminal Jurisdiction—Courts

HELD: State courts have jurisdiction of crimes committed by Indian wards upon lands to which the United States has parted with ownership.

May 25, 1933.

You have submitted two questions:
"1. May the treasurer of a county accept county warrants in payment of taxes where there is a large amount of warrants registered?"

over which it no longer exercises control, even if within the exterior boundaries of the reservation, are not deemed a part of the reservation."

In a late case, *State v. Phelps*, 93 Mont. 277, 19 Pac. (2nd) 319, being a case where a tribal Indian was convicted in the state court for stealing cattle on the Crow Indian Reservation, the Supreme Court held that the state court had no jurisdiction. The court, however, did say on page 284: "As to individuals committing acts proscribed by both federal and state laws, it is sufficient here to say that, if a tribal Indian commits such a crime off the reservation, or a person not a tribal Indian commits such a crime on the reservation, the state court has jurisdiction; * * *." (See also *State v. Spotted Hawk*, 22 Mont. 33 and *State v. Little Whirl Wind*, 22 Mont. 425.) The statements of the law by our Supreme Court are in line with other cases. In 31 C. J. 539, Section 130, appears this general statement of the law: "The state courts have exclusive jurisdiction over crimes committed by tribal or other Indians within the state and outside the limits of any Indian reservation, where there are no statute or treaty provisions granting or retaining jurisdiction in favor of the United States." (See footnote 68 citing the two Montana cases named.)