

jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

(June 25, 1948, ch. 645, 62 Stat. 757; May 24, 1949, ch. 139, §25, 63 Stat. 94.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on sections 548 and 549 of title 18, and sections 212, 213, 215, 217, 218 of title 25, Indians, U.S. Code, 1940 ed. (R.S. §§2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §1, 18 Stat. 318; Mar. 4, 1909, ch. 321, §§328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R.S. §§2145, 2146 (U.S.C., title 25, §§217, 218) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U.S. v. McBratney*, 104 U.S. 622 and *Draper v. U.S.*, 17 S.Ct. 107, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, "Indian country" was defined but once. (See act June 30, 1834, ch. 161, §1, 4, Stat. 729, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U.S. v. McGowan*, 58 S.Ct. 286, 302 U.S. 535, following *U.S. v. Sandoval*, 34 S.Ct. 1, 5, 231 U.S. 28, 46. (See also *Donnelly v. U.S.*, 33 S.Ct. 449, 228 U.S. 243; and *Kills Plenty v. U.S.*, 133 F.2d 292, certiorari denied, 1943, 63 S.Ct. 1172). (See reviser's note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U.S. v. Pelican*, 1913, 34 S.Ct. 396, 232 U.S. 442, 58 L.Ed. 676.

1949 ACT

This section [section 25], by adding to section 1151 of title 18, U.S.C., the phrase "except as otherwise provided in sections 1154 and 1156 of this title", incorporates in this section the limitations of the term "Indian country" which are added to sections 1154 and 1156 by sections 27 and 28 of this bill.

AMENDMENTS

1949—Act May 24, 1949, incorporated the limitations of term "Indian country" which are contained in sections 1154 and 1156 of this title.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-297, §1, May 29, 1976, 90 Stat. 585, provided: "That this Act [amending sections 113, 1153, and 3242 of this title] may be cited as the 'Indian Crimes Act of 1976'."

§ 1152. Laws governing

Except as otherwise expressly provided by law, the general laws of the United States as to the

punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

(June 25, 1948, ch. 645, 62 Stat. 757.)

HISTORICAL AND REVISION NOTES

Based on sections 215, 217, 218 of title 25, U.S.C., 1940 ed., Indians (R.S. 2144, 2145, 2146; Feb. 18, 1875, ch. 80, §§1, 18 Stat. 318).

Section consolidates said sections 217 and 218 of title 25, U.S.C., 1940 ed., Indians, and omits section 215 of said title as covered by the consolidation.

See reviser's note under section 1153 of this title as to effect of consolidation of sections 548 and 549 of title 18, U.S.C., 1940 ed.

Minor changes were made in translations and phraseology.

§ 1153. Offenses committed within Indian country

(a) Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, maiming, a felony under chapter 109A, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury (as defined in section 1365 of this title), an assault against an individual who has not attained the age of 16 years, felony child abuse or neglect, arson, burglary, robbery, and a felony under section 661 of this title within the Indian country, shall be subject to the same law and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

(June 25, 1948, ch. 645, 62 Stat. 758; May 24, 1949, ch. 139, §26, 63 Stat. 94; Pub. L. 89-707, §1, Nov. 2, 1966, 80 Stat. 1100; Pub. L. 90-284, title V, §501, Apr. 11, 1968, 82 Stat. 80; Pub. L. 94-297, §2, May 29, 1976, 90 Stat. 585; Pub. L. 98-473, title II, §1009, Oct. 12, 1984, 98 Stat. 2141; Pub. L. 99-303, May 15, 1986, 100 Stat. 438; Pub. L. 99-646, §87(c)(5), Nov. 10, 1986, 100 Stat. 3623; Pub. L. 99-654, §3(a)(5), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100-690, title VII, §7027, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 103-322, title XVII, §170201(e), title XXXIII, §330021(1), Sept. 13, 1994, 108 Stat. 2043, 2150; Pub. L. 109-248, title II, §215, July 27, 2006, 120 Stat. 617.)

HISTORICAL AND REVISION NOTES

1948 ACT

Based on title 18, U.S.C., §§548, 549 (Mar. 4, 1909, ch. 321, §§328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).