

They say what their rules for procedure may be on criminal cases, these determine what the bill shall be and so forth.

Now what this does, it provides that whenever a tribal council conducts a criminal case, it shall respect constitutional rights, and those constitutional rights are set out in section 202 at page 13.

So all it says to the tribal council is, you must follow the constitution as it relates to freedom of speech, or of the press, or the right of the people peaceably to assemble and petition for a redress of grievances and so on down the list as I have read, and they are all outlined in 10 different items as they appear in section 202, as I tried to point out, this relates to our own first 10 amendments of the Constitution of the United States and it says that the Indians shall abide by it. There is no problem as I see it in the tribe living up to the Federal Constitution in a trial of its criminal cases.

Mr. SMITH. Does this put the Indians under the State laws?

Mr. ROGERS. May I point out this, what we have been discussing—what I have been discussing relates to the procedures in a tribal council as it relates to the punishment and as they deal with it and the Secretary of the Interior is under an obligation to help them work out the procedures in these counsel.

Now, the other is that, if the Indian tribe and the State should agree that they should come under the State law, then the State should take the action. There is an election, that is outlined on page 20, by the Indians who were enrolled Indians within the affected area of such Indian territory and they may accept such jurisdiction by majority vote of the adult Indians voting at a special election held for that purpose.

Now, when that happens and the State agrees to it, then they come under the State law itself. So you have two different things dealing with it.

If the tribal council wants to continue as such, they can do so. If the Indian on the roll votes to place it under the State and let the State carry out the functions and apply the State law to the crimes and offenses they may agree to do so.

Mr. SMITH. I remember in the State legislature, and I am not trying to be facetious, we changed laws in California having to do with sex crimes—sex psychopaths and so forth, I remember some of the prosecuting officials that testified got into the Indian question and discussed whether or not where, with respect to crimes such as rape, the Indian way of thinking was compatible to our laws. They said a lot of times when Indians have committed rape they are given a horse and made a prince instead of being penalized; I was wondering if this would place them under the California law.

Mr. ROGERS. As I pointed out in my statement in title V, the Major Crimes Act presently provides Federal courts with jurisdiction, if a specified offense is committed on an Indian reservation.

Mr. SMITH. I have just a couple of other questions.

If we proceed in accordance with your request, as the chairman said, we could not change the Indian situation. If you had your druthers, would you think, as a learned and experienced and able member here, that it would be better for the Congress to consider the Indian problem alone rather than in a civil rights bill?

Mr. ROGERS. I know that a good study was made of this by Senator Ervin's subcommittee and the Senate Judiciary Committee. I under-