

would incorporate those rights enumerated in title I, which places certain limitations on Indian tribal governments in the exercise of self-government, particularly in the administration of justice.

TITLE III

The purpose of title III is to repeal section 7, Public Law 280, 83d Congress, and to authorize the United States to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of that law, as it was in effect prior to its repeal by this title. The consent of the United States is also given to any State to assert civil and criminal jurisdiction in Indian country where no State jurisdiction now exists and where the consent of the Indian tribes is obtained by popular referendum of all the enrolled adult Indians within the affected area.

TITLE IV

The purpose of title IV is to add to the "Major Crimes Act" the offense of "assault resulting in serious bodily injury." This new crime would amend section 1153 of title 18 of the United States Code.

TITLE V

The purpose of title V is to expedite the approval of contracts between Indian tribes or other groups of Indians and their legal counsel when such approval by the Secretary of the Interior or the Commissioner of Indian Affairs is required by law.

TITLE VI

The purpose of title VI is to update and expand the volumes entitled "Indian Affairs, Laws, and Treaties" (S. Doc. No. 319, 58th Cong.), the treatise entitled "Federal Indian Law," and to prepare an accurate compilation of the opinions of the Solicitor of the Department of the Interior.

NEED FOR LEGISLATION

The need for legislation to protect the rights of the American Indian became evident as the Subcommittee on Constitutional Rights conducted its studies and hearings over the past several years, beginning in 1961.

TITLE I

A. Denial of rights by tribal governments

When the subcommittee began its investigation of the constitutional rights of American Indians, Chairman Ervin wrote the Attorney General of the United States requesting his views on the constitutional rights of American Indians. Attorney General Kennedy replied as follows:

"All the constitutional guarantees apply to the American Indians in their relations with the Federal Government, or its branches, and the State governments to the same extent that they apply to other American citizens. It is not entirely clear to what extent the constitutional restrictions applicable to the Federal Government, or its branches, and to the State governments are applicable to tribal governments, but the decided cases indicate there are large areas where such restrictions are not applicable."

Indian tribes in the United States have been recognized and treated as distinct and independent political communities since early 1800. Indian tribes possess and exercise inherent powers of self-government which derive from the sovereign character of the tribe and not by grant or cession from Congress or the States.

Several sections of the Constitution have been used to establish restraints on Indian self-government although Congress has exercised its powers to legislate such restraints on numerous occasions. The tribe retains quasi-sovereign authority over its internal affairs, and thereby exercises final, unchecked authority over many facets of an Indian's life.

The contemporary meaning of tribal sovereignty is defined in the case of *Iron Crow v. Oglala Sioux Tribe*, 231 F. 2d 89 (8th Cir. 1956), as follows:

"It would seem clear that the Constitution, as construed by the Supreme Court, acknowledges the paramount authority of the United States with regard to