

under the existing code, the total number of challenges in selecting a jury, preemptory and challenges for cause, is three. Subpoenaed witnesses are paid by the party calling them their actual traveling and living expenses incurred, if the court so direct, and the fee for jury duty remains 50 cents a day. Questions before the court regarding the meaning of laws, treaties, or regulations are frequently referred to the superintendent for his opinion even though he is not a lawyer and lacks a legal training.

"A new model code is necessary if there is to be a sensitivity to our traditional and constitutional standards in Indian courts. A code applied uniformly to all Indian courts would also assure individuals subject to their jurisdiction the same rights, privileges, and immunities under the U.S. Constitution as are guaranteed other citizens of the United States being tried in a Federal court for similar offenses."

While we might differ on the question of whether the present "operating" code is "outmoded", etc., we would agree that probably it could be improved and updated.

We now encourage each tribe to adopt a code that conforms as much as possible to the law of the State involved. Our goal is to make the Indians a part of the States in which they reside. A model code could be drafted in a manner that is consistent with that effort.

We note also that the bill calls for the development of a "model code," but it does not require the tribes to adopt all or any part of it. We believe that this is wise.

Title III, which relates to State assumption of civil or criminal jurisdiction over Indian reservations, changes the present law now embodied in section 7 of Public Law 280, 83d Congress:

(a) by requiring consent of the tribe occupying the reservation before a State may assume jurisdiction;

(b) by making explicit an authority which we believe is now implicit—an authority to assume partial jurisdiction, or piecemeal jurisdiction, either by geographic area or by subject matter; and

(c) by authorizing the United States to accept a retrocession of jurisdiction from any State that acquired jurisdiction under the present provisions of Public Law 280.

The first of these changes is highly desirable. Our files are replete with resolutions and communications from many Indian groups urging this change. The change would do much to allay the fears, whether real or imagined, of the Indian people that they may be subjected to strange courts before they are ready, or before they are assured of fair and impartial treatment.

The second change is a change of form and not a change of substance, because the present law permits the States to assume partial jurisdiction either by geographic area or by subject matter. Some of the States have in fact done so. For example, Nevada has assumed jurisdiction over limited areas. Idaho has assumed jurisdiction over limited subject matter (compulsory schools, public assistance, domestic relations, mental illness, juvenile delinquency, dependent children). Washington has assumed jurisdiction over both limited areas and limited subject matter.

Inasmuch as this part of title III is a clarification rather than a change of present law, we have no objection to it.

The third change gives the United States permissive authority to accept a retrocession of jurisdiction. It does not specify the official who may exercise the permissive authority on behalf of the United States. Presumably, it would be the Secretary of the Interior.

Title IV creates a new crime of "assault resulting in serious bodily injury" within the Indian country. While we believe that the enactment of Public Law 89-707, 80 Stat. 1100, 18 U.S.C. 1153, 3242, makes unnecessary any further legislation relating to assault within the Indian country, we do not object to this additional crime. The law now covers assault with a dangerous weapon, assault with intent to commit rape, and assault with intent to kill.

Title V provides that any application for a contract or agreement relating to the employment of legal counsel requiring approval of the Secretary of the Interior or the Commissioner of Indian Affairs will automatically be in full force and effect if approval is neither granted nor denied within a period of 90 days after application for approval is filed with the Secretary.

On November 26, 1962, the Commissioner of Indian Affairs delegated authority to the Area Directors to approve tribal attorney contracts. Prompt action is now