

We do not object to the principles set forth in S. 1843, because these same principles are part and parcel of our own traditional concepts of justice and our way of life; the procedures required by the proposed legislation are, however, highly objectionable to us because they tend to eliminate our traditional ways of attaining the basic objectives of justice and equity. Not only would the proposed innovations destroy our own judicial system, but they threaten the whole structure of our Pueblo governments since all of its functions are interlinked.

Let us examine only a few of the serious threats to our institutions, contained in S. 1843.

1. Introduction of a jury system is superfluous, from our point of view. The most stable and respected members of our communities compose our councils; our councils administer justice and they are by their very composition, in the nature of a jury. To us it is no more logical to use a jury system for the settlement of internal matters within the extended "family" that makes up a pueblo than it would be to use a similar system within the framework of an Anglo-American family as a means for enforcing internal rules or resolving internal disputes. Further, a formal jury system, if required in our pueblo courts, would constitute an expense for which we have no funds. Most of the pueblos have limited income for public purposes.

2. Section 102(6) requires public trials, compulsory process for obtaining witnesses in favor of the accused and the right of the defense to hire counsel. Again, we cannot afford the expense involved in operating our courts after the fashion of outside, tax-supported institutions, and we have no funds with which to retain the prosecuting attorney we would need if the defendant were to be represented by legal counsel. In addition, an attorney who does not have intimate knowledge and understanding of our system, and the social values inherent therein, could not function adequately, and there are no attorneys with such knowledge.

3. Section 103, habeas corpus, opens an avenue through which Federal courts, lacking knowledge of our traditional values, customs, and laws, could review and offset the decisions of our councils sitting as courts and acting on the basis of our own laws and customs as tribal courts.

4. Title II requires the drafting of a model code to govern the administration of justice in all tribal courts. The objection to a model code is implicit in foregoing paragraphs. We, the pueblos of New Mexico, are unique; a code and court procedures applicable to other communities, including perhaps other Indian communities, simply are not adaptable to our traditional way of administering justice.

We prefer to establish our own code of tribal laws, and we prefer to continue to administer justice following the procedures we have always followed. Our All-Indian Pueblo Council is presently working on a model code to be submitted to each of the 19 Indian pueblos for consideration. Through this code we are trying to reduce to writing our traditional form of justice, both substantively and procedurally.

We hope to incorporate the principles that our courts have traditionally employed—that is, seeking to make the injured party, or the one against whom the offense is committed, whole. For example, if one of our members should injure another to the extent that the injured party for a period of time could not work his fields or provide for his family, our system traditionally requires the aggressor to substitute