

scope of title I. The testimony was that the Supreme Court has handed down a great number of decisions interpreting the Bill of Rights and title I of S. 1843 would make all those decisions automatically applicable to the operations of the tribal governments.

That is not what title I says. Title I says only that the enumerated rights in title I shall apply to the acts of Indian tribes and we do not have in the bill those phrases in the Constitution of the United States such as "due process" or "equal protection of the law" which have given the Supreme Court so much difficulty in interpretation.

With respect to habeas corpus, section 103 would make the great writ available in the U.S. district court to any person to test the legality of his detention by order of an Indian tribe.

Now, I personally believe that the Federal courts as exemplified by the decision of the Court of Appeals for the Ninth Circuit in *Colliflower v. Garland* which was mentioned this morning will probably adopt this rule even in the absence of legislation. I think the courts also will get to the point of saying there are certain rights that everybody living in the United States has and we will protect them with the great writ if there is no other way to do it.

That concludes my testimony with respect to title I.

The CHAIRMAN. Thank you very much. You are right on time.

The gentleman from Washington.

Mr. MEEDS. Thank you, Mr. Chairman.

Mr. LAZARUS, if the first 10 amendments were made to guarantee personal liberties of citizens as against government, if the State of New Mexico, for instance, were to conduct a search and seizure on an Indian reservation under the present situation would the fourth amendment apply to the Indian whose home was improperly searched?

Mr. LAZARUS. Yes. But the State of New Mexico has no jurisdiction on an Indian reservation with respect to the activities of Indians to begin with, but if you got past that hurdle where the State didn't have jurisdiction to start with, and you could suppress anything it did on the basis of lack of basic jurisdiction, the prohibition against searches and seizures then would come into operation.

Mr. MEEDS. But how might you get that matter heard if the fourth amendment does not apply to Indians?

Mr. LAZARUS. Well, if you are saying if a tribal government, not the State of New Mexico, but if we are talking about a tribal policeman—

Mr. MEEDS. Right.

Mr. LAZARUS. Coming in and invading the home of a member of the tribe and seizing evidence, and then attempted to use that evidence in a trial in the tribal court—

Mr. MEEDS. There is no protection. I understand.

Mr. LAZARUS. There is no protection that the individual now has if the judge allows that evidence into the record.

Mr. MEEDS. And it is the same situation, is it not, with regard to the Indian members who were incarcerated here, the judges who held in favor of the Catholic priest and who were incarcerated for it. How do you test the legality of their being held?

Mr. LAZARUS. Only through habeas corpus.

Mr. MEEDS. Now, it is your position that eventually the courts are going to get to, and we know that it has in the ninth circuit, but at