

the Supreme Court level will get to extending this whether we pass this bill or not. But right now, how do—how would they ever have the legality of their detention tested?

Mr. LAZARUS. In New Mexico where I understand the courts have ruled that they do not have jurisdiction to entertain habeas corpus petitions, there is in fact no way of testing in a court if the tribal authorities deprive an individual of his constitutional rights.

The CHAIRMAN. The gentleman from Washington has used his time and the chairman's time.

Mr. MEEDS. How much time did I have?

The CHAIRMAN. 2 minutes and a quarter.

Mr. MEEDS. I had about 5 minutes extra.

The CHAIRMAN. We have two more attorneys yet to take care of.

The gentleman from South Dakota.

Mr. BERRY. Just a couple of questions. Is it your understanding, Mr. Lazarus, that at the present time an Indian does not, on the reservation, have the protection of the Bill of Rights? The constitutional provisions?

Mr. LAZARUS. He has the protection of the Federal Bill of Rights in relation to the Federal Government and in relation to the State governments but in relation to his tribal government there are a number of cases decided in the court of appeals which say that the Bill of Rights does not reach the acts of an Indian tribe in relation to its members, and these have covered such matters as taking of property without payment of just compensation, freedom of religion, due process.

There is one case, Colliflower against Garland, where Mrs. Colliflower was brought before the tribal court and pleaded not guilty and the judge said, "I know you are guilty. Five days." And that was her trial. And she petitioned for a writ of habeas corpus which was denied in district court but granted in the court of appeals.

That is a landmark case. In my opinion, that is the way the courts will go in the future, when they are faced with deprivations of constitutional rights.

The CHAIRMAN. Does the gentleman from Idaho wish to use his time or yield to his colleague?

Mr. McCLURE. I would like to ask a question.

The CHAIRMAN. All right.

Mr. McCLURE. Mr. Lazarus, on page 5 of your statement, at the bottom of the page, you say:

"One of the major objections to Public Law 280 is its 'all or nothing' approach."

I would assume from that if this were not clear or if this is to be modified, you would not have a major objection to Public Law 280.

Mr. LAZARUS. There are two major objections to Public Law 280. One is the lack of consent and the "all or nothing" approach is part of the lack of consent. A piecemeal approach implies negotiation back and forth between the Indians and the State authorities.

Mr. McCLURE. I hate to cut you off but if I want to ask another question, I am going to have to. And I would like to refer you to page 4 of the Department of Interior's statement, a letter of March 27, 1968. They stated the second change is a change of form and not a change of substance because the present law permits the States to as-