

stitute for that act a procedure, overwhelmingly supported by the Indians themselves, including our clients, whereby States could assume civil or criminal jurisdiction on Indian reservations only "with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption. * * *" The proposed statute would not change the status quo in any State which already had taken over jurisdiction on Indian reservations pursuant to Public Law 280. If such a State subsequently decided that it had made a mistake in taking over law enforcement in Indian country, however, the bills would authorize the United States to accept a retrocession of that jurisdiction.

As in the case of Public Law 280, S. 1843 and H.R. 15122 provide that State jurisdiction shall not deprive the Indians concerned of any right "afforded under Federal treaty, agreement, or statute," or subject Indian trust property, including water rights, to taxation, encumbrance, or other forms of alienation. In case of an assumption of civil jurisdiction, the bills further provide that any "tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect. * * *"

One of the major objections to Public Law 280 is its "all or nothing" approach, requiring States to assume all jurisdiction on Indian reservations if any jurisdiction is desired. The proposed legislation, authorizing piecemeal transfers of jurisdiction, would permit negotiated agreements between the States and the tribes involved over the extent to which the former should assume responsibility for law enforcement in Indian country and thus should avoid some of the hardships which Public Law 280 has caused.

CRIMES

On the assumption that 6 months in jail, the maximum punishment which most tribal courts can impose, is an inadequate penalty for serious crimes of violence, section 401 would add "assault resulting in serious bodily injury" to the list of major crimes (now 11) committed by an Indian against an Indian in Indian country, which are punishable as Federal offenses in the U.S. District Court. Although our clients are not aware of any pressing need for this change in the law, they are prepared to support the legislation on the theory that its enactment could result only in better law enforcement on Indian reservations.

ATTORNEYS

Section 501 provides that, if the Secretary of the Interior fails to act upon a proposed tribal attorney contract within 90 days, the contract shall be deemed to be approved. In the past, delays in the approval of attorney contracts have deprived tribes of effective legal representation and we regret to report that this situation does not seem materially to have improved in those cases where the agreement is referred from the field to Washington. The creation of a 90-day statutory deadline for secretarial action hopefully will encourage administrators to make their decisions more quickly.