

standing for tribal traditions and customs and at greatly reduced costs to the tribe and to the litigants cannot be denied.

The right to "assistance of counsel" under the decisions of State and Federal Courts is the right to the assistance of a lawyer.

SECTION 102 (7), PAGE 8

The limitation of six months imprisonment or a fine of \$500, or both, has long been in effect in Courts of Indian Offenses by the Code of Federal Regulations, (25 C.F.R., Chapter I) but Tribal Courts operating under their own inherent powers have not been so delimited.

The tribes I represent are in the process of seeking agreements with the State and Federal Governments for the use of their institutions of hospitalization, rehabilitation and correction for Indians convicted of tribal offenses. These same tribal governments are ahead of their non-Indian counterparts in abandoning the concept of punishment for crimes, replacing it with more scientific methods of diagnosis, treatment and rehabilitation. Public protection is not abandoned in the process. It is regarded as of equal importance.

The limitation proposed in this section is not justified in its application to Tribal Courts. The tribal governing bodies of the Ute and Hopi Tribes have commenced comprehensive programs worthy of note by all those interested in judicial reform.

SECTION 102 (10), PAGE 9

The right of trial by jury, upon request, is a recognized but seldom used privilege with many tribes. Many accused Indian people feel they do not need a jury of peers to determine the facts already within the knowledge of the accused. The defendant enlightens a credulous court. This unfeigned procedure may seem unnatural and even odd to current concepts of jurisprudence, but what moral law prompts its abandonment? The Ute Tribe affords trial by jury at the choice of those charged, but the Pueblo Indians have informed us that close family relationships in small tribes prevents the use of the jury system in those tribes.

CONCLUSIONS ON TITLE I, SECTION 102

1. Void of guile, the Indian inquires, do we not have inalienable rights to be protected as our customs and traditions require? Or must we relinquish our right of self-government and submit to an alien code born of the reasoning that someone else knows better than we the safeguards of our sacred rights? If the final result of our own effect is oppressive to the individual Indian or offends human dignity, Congress should not tolerate our tyranny, but where is the case for such a general assumption? The Ute Indian Tribe has its own Bill of Rights guaranteeing the right to vote, equal opportunity to participate in the economic resources and activities of the reservation, freedom of speech, worship, conscience, press, assembly and association and further the right to a prompt and public trial with other attendant rights for the accused. Jury trial is assured. Excessive bail may not be required and cruel punishment shall not be imposed. The Hopi Bill of Rights is not as extensive, but it has met their needs. When it does not, I am confident they will change it. Spare us the misery and indignity of being forced to acquire your vices to give efficacy to your cures.

2. Indian Tribes have been encouraged to exercise their own initiative in seeking a better life both socially and economically. Nothing is more discouraging to the Indian people than to have their extraordinary efforts summarily rebuffed by well-meaning but inconsiderate and incompatible Congressional legislation.

3. While the objections outlined above may be met with individual amendments, such a procedure would undoubtedly have negative implications. We are sure Congress would not want such amendments to be subject to the interpretation that certain violations of the Bill of Rights are desirable. We acknowledge the laudable intentions of Congress and at the same time implore a recognition of the equally laudable intentions of the tribes that are in good faith attempting to provide a maximum of individual freedom, but are finding grave difficulty in the application of the terminology of non-Indian law and the interpretations of United States Courts to an entirely different set of circumstances, including Indian traditions and customs. It seems highly desirable that there be a frank recognition, in the quest for protection of inalienable rights for everyone, that some virtue and some vice can be found in both the Indian and the non-Indian