

effort. As a suggested alternative to the language employed in Section 102, we offer the following:

Insert after word "government" on line 20 page 7 the phrase ", except as herein otherwise provided,".

Insert as a new paragraph at the end of Section 102 on page 9 the following:

This section shall not apply to any Indian tribe operating its government subject to its own duly adopted Bill of Rights and having tribal courts, as distinguished from courts of Indian offenses, such courts being possessed of the powers necessary to enforce the tribal Bill of Rights. In the event the Secretary of the Interior, or his duly authorized representative, has reason to believe that the judicial system of any tribe is not operating in a manner reasonably calculated to protect the individual members of such tribe against arbitrary oppression and conduct offensive to human dignity, he may issue an order requiring the tribal executive officer or officers to show cause why such tribe should not become subject to the Bill of Rights as provided in this section. If after a hearing, to be held in accordance with rules promulgated by the Secretary of the Interior, it is determined by the Secretary of the Interior, it is determined by the Secretary of the Interior, or his duly authorized representative, that the judicial system of said tribe is in fact not operating in a manner to reasonably protect the individual members thereof against arbitrary oppression and conduct offensive to human dignity, he may declare such tribe subject to the Bill of Rights as set out in this section and that tribe shall become subject thereto upon publication of such declaration in the Federal Register. The determination by the Secretary of the Interior, or his duly authorized representative, shall take into consideration the traditions and customs of such tribe. Any tribe desiring to voluntarily subject itself to the Bill of Rights set forth herein may do so by so declaring after approval of the tribal members in a manner required for the adoption of a constitution for said tribe and the tribe shall become subject thereto upon publication of such declaration in the Federal Register.

SECTION 201, PAGE 9

Since it is not a matter of common knowledge that there is a distinction between Courts of Indian Offenses on Indian reservations and Tribal courts on Indian reservations, in the interest of clarity it is suggested that the period in line 19, page 9, be deleted and a comma inserted in lieu thereof, to be followed by the following language: "where no tribal courts have been established and maintained."

SECTION 301(A), PAGE 11 AND SECTION 302, PAGE 12

An ambiguity would be removed by inserting at the end of line 3, page 11, the word "applicable". The same word should be inserted after the word "those" on line 7, page 12, for the same reason.

SECTION 303(A), PAGE 13

Retrocession of jurisdiction conferred by this Act should also be possible. It is suggested that the words "pursuant to this act or" be inserted at the end of Line 7, page 13.

SECTION 401, PAGE 15

This section should be amended to allow concurrent jurisdiction of the major offenses in Indian Courts where federal prosecution has been declined or dismissed without placing the defendant in jeopardy. A reasonable limitation on the sentence by Indian Courts in these cases would not be objectionable.

There has been a rather general assumption that cases placed within the jurisdiction of the federal courts solves the Indian problem in such cases. This naive supposition has been a great detriment to law and order programs on Indian reservations. During the years commencing with 1960 to and including 1967, only 15 cases presented to federal authorities in Utah were prosecuted while 55 were declined for reasons that greatly disturbed the tribal law enforcement officials. We understand this situation is not unique to Utah. When Indian cases are tried in federal courts, prosecutors are often less than enthusiastic for their cause, while jurors tend to be overly sympathetic with Indian defendants. The insurmountable difficulty seems to be the lack of interest or under-