

The committee stands adjourned.

(Thereupon, at 3:20 p.m., the hearing in the above matter was concluded.)

(The statement of Senator Ervin received following the hearing will be placed in the record at this place with permission granted on p. 35.)

STATEMENT OF THE HONORABLE SAM J. ERVIN, JR., U.S. SENATOR FROM THE
STATE OF NORTH CAROLINA

Mr. Chairman, thank you for the opportunity to present testimony on S. 1843, a bill to grant the American Indians rights which are secured to other Americans. As you know, on December 7, the Senate unanimously passed S. 1843, and by this action declared that the American Indian should no longer be a second-class citizen. I should like to point out that the President of the United States, on March 6, 1968, sent to the Congress a message relating specifically to the problems of the American Indian. In his unique and persuasive message the President made the following statement in urging passage of the provisions embodied in S. 1843:

"In 1934, Congress passed the Indian Reorganization Act, which laid the groundwork for democratic self-government on Indian reservations. This Act was the forerunner of the tribal constitutions—the charters of democratic practice among the Indians.

"Yet few tribal constitutions include a bill of rights for individual Indians. The basic individual rights which most Americans enjoy in relation to their government—enshrined in the Bill of Rights of the Constitution of the United States—are not safeguarded for Indians in relation to their tribes.

"A new Indian Rights Bill is pending in the Congress. It would protect the individual rights of Indians in such matters as freedom of speech and religion, unreasonable search and seizure, a speedy and fair trial, and the right to habeas corpus. The Senate passed an Indian Bill of Rights last year. I urge the Congress to complete action on that Bill of Rights in the current session.

"In addition to providing new protection for members of tribes, this bill would remedy another matter of grave concern to the American Indian.

"Fifteen years ago, the Congress gave the States authority to extend their criminal and civil jurisdictions to include Indian reservations—where jurisdiction previously was in the hands of the Indians themselves.

"Fairness and basic democratic principles require that Indians on the affected lands have a voice in deciding whether a State will assume legal jurisdiction on their land.

"I urge the Congress to enact legislation that would provide for tribal consent before such extensions of jurisdiction take place."

In requesting favorable action on the Indian rights measure, the President has affirmed the Federal Government's belief that the American Indians should share in the American dream of equality and justice under law.

These Indian rights measures have had careful and meticulous study by the Senate of the United States. In fact, I know of no bill which has been as thoroughly studied as the one pending before this Subcommittee. Beginning in 1961, the Subcommittee on Constitutional Rights initiated a study of the legal status of the Indian and the problems he encounters when asserting constitutional rights in his relations with State, Federal, and tribal governments. This effort represented the first study that the Congress had ever undertaken in this field, and the results were startling indeed. Subcommittee investigations showed that the American Indian lived in a legal no-man's land—without full protection from either tribal, State, or Federal governmental organizations.

Since the initiation of this study seven years ago, the Subcommittee has conducted hearings in California, Arizona, New Mexico, Colorado, North and South Dakota, and Washington, D.C. We have heard from individual Indians, tribal units, national associations representing Indians, tribal attorneys, Members of Congress, State officials, and representatives of the Department of the Interior. These hearings, and the voluminous record compiled by the Subcommittee staff, furnish clear evidence of the necessity for congressional action in an area too often overlooked by Congress.

This omnibus measure is a consolidation of five individual bills—S. 1843, S. 1844, S. 1845, S. 1846, S. 1847—and one joint resolution—Senate Joint Resolu-