

tion 87—which I introduced on May 23, 1967. As originally introduced, these measures covered the six major areas in which the rights of Indians have been neglected for years. As amended, S. 1843 was the vehicle for combining the provisions of the six original measures.

At this point, I should like to give a brief analysis of the six titles of the bill and then discuss some specific problems that have arisen in connection with certain titles.

TITLE I

The first title makes the Bill of Rights applicable to an Indian when he is charged with a crime by a tribal court, thus assuring the Indian citizen the basic rights and privileges in his relationship with his tribal government that every other American citizen now has in his relationship with his State, local and Federal Governments.

Tribal governments have been considered by the courts as quasi-sovereign entities to whose actions the Bill of Rights, along with other constitutional provisions, do not apply. The Subcommittee's hearings established that in many instances tribal governments have deprived Indians of the right to be represented by counsel, the right to be free from illegal search and seizure, the right to freedom of religion—rights that others take for granted. Title I seeks to secure these basic rights. The Title prohibits Indian tribes exercising powers of self-government from:

First, making or enforcing any law prohibiting the free exercise of religion, or abridging the freedom of speech, press or assembly, or the right of the people peaceably to assemble and to petition governmental units for a redress of grievances;

Second, violating the right of individual Indians to be secure in their persons, homes, and possessions against unreasonable searches and seizures;

Third, subjecting any person for the same offense to be twice put in jeopardy;

Fourth, compelling any person in any criminal case to be a witness against himself;

Fifth, taking any private property for a public use without just compensation;

Sixth, denying to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense at his own expense;

Seventh, requiring excessive bail, imposing excessive fines, or inflicting cruel and unusual punishments. The penalty of a \$500 fine or imprisonment for a term of 6 months or both would remain the maximum punishment for any one offense;

Eighth, denying to any person equal protection of the laws or depriving any person of liberty or property without due process of law;

Ninth, passing any bill of attainder or *ex post facto* law; or

Tenth, denying to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Title I also provides that any Indian detained by order of a tribal court is entitled to the writ of habeas corpus in a court of the United States to test the legality of his detention.

In order to give Indian tribes an opportunity to adjust to this new system of jurisprudence, the provisions of title I would become effective 1 year after the date of enactment.

TITLE II

Title II is designed to complement the provisions of title I. It directs the Secretary of the Interior to recommend to Congress a model code governing the administration of justice by courts of Indian offenses on Indian reservations. The present code, found in title 25 of the Code of Federal Regulations, part II, is outmoded, impractical, and fails to provide for adequate administration of justice. For example, under the existing code, the total number of challenges for cause and peremptory challenges permitted in selecting a jury is three, and the fee for jury duty remains 50 cents a day.

In carrying out the provisions of title II, the Secretary of the Interior is directed to consult with Indians, Indian tribes, and interested agencies of the United States.