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United States Senate

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
(PURSUANT TO S. RES. 58, 88TH CONGRESS)

October 4, 1963

MONTHLY STAFF REPORT TO THE SENATE SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS

CONSTITUTIONAL RIGHTS OF THE AMERICAN INDIAN

Chairman Ervin presented a paper to the Indian Law Committee of the Federal Bar Association at its Annual Convention in Philadelphia on September 26. In presenting his views on "Rights of Indians Under the Constitution of the United States," the Senator discussed some of the cases which outline the Indian's present day legal status. In addition, he noted the following problems of concern to the Subcommittee:

"the fact that the Federal judiciary has determined that the guarantee of freedom of worship, speech, and the press, and the right to assemble and petition the government, and due process do not restrict tribal action.

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"...Constitutional Amendments which forbid the United States and the States to deprive any person of life, liberty or property without due process of law do not apply to a tribe's conduct of criminal trials.

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"Congress has granted to the Secretary of Interior guardianship of Indian lands.... The guardianship limitations on what an Indian could do with respect to land have expanded to include all community problems such as the administration of justice, education, and general welfare; and there is serious question as to whether or not the Secretary acts constitutionally when he approves tribal ordinances which violate a provision of the Bill of Rights."

The Senator also noted that, "there are differences within the Indian courts such as the absence of an effective appeal procedure...and the omission of an appeal to the Federal court...."

The chairman concluded by stating that he expects to introduce various bills in this session of the Congress to insure that Indians are guaranteed the same protections as other Americans.

CHURCH AND STATE

During September, the Subcommittee received numerous letters from public school administrators, teachers, and private individuals requesting an investigation of federal aid to private schools. Chairman Ervin has directed the Subcommittee staff to give particular emphasis to this phase of church-state relations in its research with a view to the Subcommittee's determining if hearings on this subject are desirable.

CONSTITUTIONAL RIGHTS OF MILITARY PERSONNEL

Page proofs of the summary report of hearings have been returned to the printer, and the report is expected to be ready for distribution early in October.

SUBCOMMITTEE STAFF MEMBERS

One new member and two former employees have been added to the Subcommittee staff. Robert Smith, a 1963 graduate of the University of North Carolina Law School, has joined the staff as a research assistant. Mr. Smith is a native of Edenton, North Carolina.

Returning from a year's graduate political science study at Columbia University in New York is Marcia MacNaughton, formerly of Mississippi, a professional staff member.

Angelina Gomez, Kansas City, Missouri, has resumed secretarial duties after working two and a half years with the Senate Subcommittee on Constitutional Amendments.