

87th CONGRESS
1st Session

H. R. 4756

A bill to authorize assumption by the various States of civil or criminal jurisdiction over cases arising on Indian reservations with the consent of the tribe involved; to permit gradual transfer of such jurisdiction to the States; and for other purposes, introduced by Arnold Olsen, Representative from Montana, February 22, 1961 and referred to the Committee on Interior and Insular Affairs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 6 and 7 of the Act of August 15, 1953 (Public Law 280) Eighty-third Congress, 67 Stat. 588), are amended to read as follows:

"Sec. 6. The consent of the United States is hereby given to any State, with respect to any Indian country within its territorial limits, to assume jurisdiction over criminal or over civil causes of action with the consent of the tribe occupying the particular Indian country affected by the assumption of jurisdiction. The extent of such jurisdiction, either civil or criminal, shall be as agreed upon from time to time by the State and the tribe concerned, and may be extended or retracted by agreement of both the State and the particular tribe as experience proves practicable and planning may indicate to them advisable. Except to the extent provided for by such consent and agreement, there shall apply unimpaired within the particular Indian country such tribal or Federal jurisdiction as would have applied in the absence of any assumption of jurisdiction by the State.

"Sec. 7. The consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this Act."

From the office of Congressman Arnold Olsen - First District - Montana
for release Wednesday A.M., February 22, 1961.

Mr. Speaker, I have introduced a bill to authorize assumption by the various states of civil or criminal jurisdiction of cases arising on Indian reservations with the consent of the tribe involved, and to permit gradual transfer of such jurisdiction to the states. My bill is endorsed by the National Congress of American Indians, the Indians' own organization, and has particularly been requested by my own constituents, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Montana.

This bill would amend the Act of August 15, 1953, 67 Stat. 588, commonly known as P.L. 280 of the 83rd Congress has had a disastrous effect upon portions of our Indian population because it provided for the assumption of state jurisdiction by unilateral action. The consent and concurrence of the Indian tribe involved is neither sought nor necessary under P.L. 280.

As an example of the effect of P.L. 280, let us examine the situation on the Omaha Reservation in Nebraska. P.L. 280 specifically provided that the State of Nebraska shall exercise full criminal jurisdiction over all Indian country within the State. Yet, the administration of the criminal laws of Nebraska is the responsibility of the county governments. The counties in which the Omaha Reservation is located refused to assume this jurisdiction. The Federal Government and Omaha Tribe were deprived of jurisdiction by the Act. A lawless area was created by Act of Congress. Murdered men have lain in the street within the Omaha Reservation for over twenty-four hours before police have investigated the crime. This is an extreme but actual example of how P.L. 280 is operating today.

Less spectacular, but equally important, are the problems of juvenile delinquency and enforcement of traffic regulations on Indian reservations. Within my own state, Montana, there is a serious question whether state courts have jurisdiction in juvenile proceedings involving minor Indian children. There is also doubt concerning the jurisdiction of the Montana State Highway Patrol over Indians driving on State and Federal highways within a reservation.

P.L. 280 gives the state the authority to assume jurisdiction with respect to criminal offenses and civil causes of action committed by Indians or arising in "Indian Country" at such time and "in such manner" as the state legislature may provide. It is unclear whether the assumption of jurisdiction is an all-or-nothing matter or whether it can be accomplished on a trial or on a gradual basis.

Many states, realizing the problems of assuming full jurisdiction over Indian reservations and uncertain of the legality of partial jurisdiction have refrained from exercising such important jurisdiction as that concerning protective services to Indian children, where some tribes and their local governments would reach an immediate agreement for state jurisdiction if plainly permitted.

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My bill would permit piecemeal jurisdiction as to the state and tribe concerned shall agree upon from time to time and as experience proves practical and planning may indicate to them advisable. Surely my colleagues in the House of Representatives will agree with me that this not only a sound and practical approach, it is also the democratic approach.

Since the end of World War II, we have seen many former colonial areas become full-fledged independent nations and the movement is continuing. In the General assembly of the United Nations, there is much criticism of the so-called imperialistic powers. The United States of America cannot afford to be imperialistic - nor even imperious, as was P.L. 280, 83rd Congress - in dealings with our Indian brothers. We ought not take unilateral action which affects them and the states within which they reside. It behooves the United States to take action affecting their reservations with their consent and concurrence. That is the purpose of my bill.