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8/5/29/76

APPROVED
MAY 29 1976

ACTION

THE WHITE HOUSE
WASHINGTON

Last Day: June 4

May 28, 1976


Posted
6/1/76

To Archives
6/1/76

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON 

SUBJECT:

S. 2129 - The Indian Crimes Act of 1976

Attached for your consideration is S. 2129, sponsored by Senators Fannin, Domenici and Hruska. The enrolled bill would make clarifying amendments to the Indian Major Crimes Act to insure equal treatment for Indian defendants accused of committing certain assaultive-type crimes upon other Indians within Indian country.

A discussion of the enrolled bill is provided in OMB's bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus), Ted Marrs and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2129 at Tab B.





United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

MAY 26 1976

Dear Mr. Lynn:

This responds to your request for our views on the enrolled bill S. 2129, "To provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders."

We strongly recommend that the bill be approved by the President in order to cure a serious defect which now exists with regard to the prosecution of certain criminal offenses in Indian country.

S. 2129 is similar to H.R. 7592, a bill proposed by the Department of Justice on which we issued a favorable report February 12, 1976. S. 2129 would restore the ability, lost as a consequence of the recent court decisions, of the Federal Government to prosecute certain serious offenses by Indians under 18 U.S.C. §1153. S. 2129 would delete the requirement that Federal courts look to State law for the definition and/or punishment of certain enumerated crimes when the accused is an Indian. Since Federal jurisdiction regarding these enumerated crimes is dependent upon whether the accused is an Indian or a non-Indian, this would eliminate the possibility of a disparity in the definition and/or punishment of an offense under 18 U.S.C. §1153. S. 2129 would also add a new paragraph to 18 U.S.C. 1153 providing for automatic referral to State law if Congress should add an offense to the section not otherwise found among the Federal enclave laws.

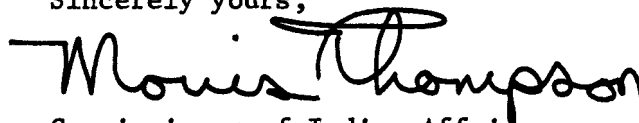
S. 2129 differs from H.R. 7592 in that it would add kidnapping to the major crimes enumerated in 18 U.S.C. 1153, while H.R. 7592 would not. In addition, S. 2129 refers to "assault with intent to commit murder," while H.R. 7592 refers to "assault with intent to kill." In its report on S. 2129 (Rep. No. 93-620), the Senate Committee on the Judiciary explains this amendment as conforming to the assault provision in 18 U.S.C. 113, the section of the United States Code that contains the definition and punishment of criminal offenses committed within the territorial and maritime jurisdiction of the United States.



The Major Crimes Act (18 U.S.C. 1153) provides that thirteen enumerated offenses committed by Indians within Indian country (as defined by 18 U.S.C. 1151) shall be subject to the laws and penalties applicable within the exclusive jurisdiction of the United States. The Act was amended in 1966, however, to provide that certain of those enumerated offenses—namely burglary, assault with a dangerous weapon, assault resulting in serious bodily harm, and incest—would be defined and punished in accordance with the laws of the State in which such offenses were committed. The Major Crimes Act applies exclusively to Indians, whether the victim be Indian or non-Indian. A non-Indian committing enumerated offenses against an Indian in Indian country would be subject to the provisions of 18 U.S.C. §1152 which extends Federal criminal jurisdiction over such non-Indians and which provides that punishment be defined by Federal law. A non-Indian committing an enumerated offense against another non-Indian in Indian country would be tried and punished in accordance with the State law of that jurisdiction. State definition and punishment for the enumerated offenses often differ from Federal law and, in many cases, State law prescribes a more severe punishment than the Federal law applicable within Indian country.

Because of the disparities in penalties given to Indians and non-Indians, as a result of the application of either State or Federal law under the statute both the Eighth and Ninth Circuits recently declared portions of the Major Crimes Act (specifically those regarding aggravated assault) to be unconstitutional, (United States v. Cleveland, (9th Cir., 1974); United States v. Seth Henry Big Crow, (8th Cir., 1975)). As a result, the Federal Government has been unable to prosecute in either of these two jurisdictions Indians who commit assault resulting in serious bodily harm. Tribal courts are restricted to jurisdiction over misdemeanors by the Indian Civil Rights Act of 1968; and, except where a State has been granted criminal jurisdiction by Public Law 83-280 or other Acts of Congress, States do not ordinarily possess jurisdiction over offenses committed by Indians in Indian country. The problem is serious and leaves Indian communities unprotected against the enumerated offenses under Federal or any law, except in the sense that a person might be prosecuted for a lesser included offense. It is urgent that the laws which were held to be invalid be replaced soon. For this reason we support enactment of S. 2129 into law.

Sincerely yours,


Commissioner of Indian Affairs

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503



Department of Justice
Washington, D.C. 20530

May 26, 1976

Honorable James T. Lynn
Director, Office of
Management and Budget
Washington, D.C. 20503

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill, S. 2129, the "Indian Crimes Act of 1976."

This bill is substantially based upon an Administration proposal prepared by this Department and previously submitted to Congress. The bill amends the Major Crimes Act, applicable to certain felonies committed by Indians in Indian country, so as to eliminate disparities in treatment as between Indians prosecuted under that Act and non-Indians prosecuted under a companion statute who commit offenses in Indian country; these disparities have resulted in federal appellate court rulings precluding, on the ground of invidious discrimination, the application of the Major Crimes Act to Indian defendants with respect to certain serious assaultive crimes in some areas, thereby according such defendants an effective immunity from prosecution for their criminal acts. In addition to restoring the ability to prosecute such offenses in an evenhanded manner, the bill makes a variety of other minor improvements to the statute.

Accordingly, the Department of Justice recommends Executive approval of this bill.

Sincerely,



Michael M. Uhlmann



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 27 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2129 - The Indian
Crimes Act of 1976
Sponsors - Sen. Fannin (R) Arizona, Sen.
Domenici (R) New Mexico and Sen. Hruska
(R) Nebraska

Last Day for Action

June 4, 1976 - Friday

Purpose

To make clarifying amendments to the Indian Major Crimes Act to insure equal treatment for Indian defendants accused of committing certain assaultive-type crimes upon other Indians within Indian country.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Justice	Approval

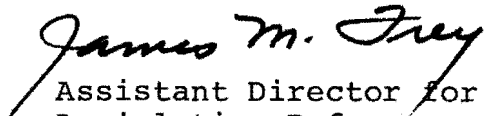
Discussion

The enrolled bill, S. 2129, based upon an Administration proposal prepared by the Department of Justice, amends the Indian Major Crimes Act, applicable to certain felonies committed by Indians in Indian country.

S. 2129 eliminates inequities in treatment as between Indians prosecuted under the Major Crimes Act and non-Indians prosecuted under a companion statute who commit offenses in Indian country. Because of these present disparities in treatment, recent Federal court rulings have held that the

application of the Major Crimes Act to Indian defendants with respect to certain assaultive-type crimes is unconstitutional, thus according such defendants effective immunity from prosecution for their criminal acts.

S. 2129 eliminates the requirement that State law be applied in certain enumerated felonies and instead subjects Indians to the same laws and penalties as all other persons committing these offenses, within the jurisdiction of the United States. In addition, while remedying the constitutional and definitional problems in existing law, the enrolled bill makes a number of other technical changes in the law as well as adding kidnapping to the list of major offenses under the Indian Major Crimes Act.


Assistant Director for
Legislative Reference

Enclosure

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 28

Time: 900am

FOR ACTION:

Dick Parsons *de*
Ted Marrs *de*
MMx Friedersdorff *de*
Ken Lazarus *de*

cc (for information):

Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 28

Time: 500pm

SUBJECT:

S . 2129 - The Indian Crimes Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Jhnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 28

Time: 900am

FOR ACTION: Dick Parsons
Ted Marrs
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

M.J.

FROM THE STAFF SECRETARY

DUE: Date: May 28

Time: 500pm

SUBJECT:

S . 2129 - The Indian Crimes Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Approval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 28

Time: 900am

FOR ACTION: Dick Parsons
Ted Marrs
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 28

Time: 500pm

SUBJECT:

S . 2129 - The Indian Crimes Act of 1976

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Approval. [Signature]

Please return to Judy Johnston, Ground Floor West Wing

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If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 28

Time: 900am

FOR ACTION: Dick Parsons
Ted Marrs
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 28

Time: 500pm

SUBJECT:

S . 2129 - The Indian Crimes Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection -- Ken Lazarus 5/28/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: May 28

Time: 900am

FOR ACTION: Dick Parsons
Ted Marrs
Max Friedersdorf
Ken Lazarus

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: May 28

Time: 500pm

SUBJECT:

S . 2129 - The Indian Crimes Act of 1976

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

approved for Ted Marrs by Bobbie Kellberg

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon
For the President

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

MAY 27 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2129 - The Indian
Crimes Act of 1976
Sponsors - Sen. Fannin (R) Arizona, Sen.
Domenici (R) New Mexico and Sen. Hruska
(R) Nebraska

Last Day for Action

June 4, 1976 - Friday

Purpose

To make clarifying amendments to the Indian Major Crimes Act to insure equal treatment for Indian defendants accused of committing certain assaultive-type crimes upon other Indians within Indian country.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Justice	Approval

Discussion

The enrolled bill, S. 2129, based upon an Administration proposal prepared by the Department of Justice, amends the Indian Major Crimes Act, applicable to certain felonies committed by Indians in Indian country.

S. 2129 eliminates inequities in treatment as between Indians prosecuted under the Major Crimes Act and non-Indians prosecuted under a companion statute who commit offenses in Indian country. Because of these present disparities in treatment, recent Federal court rulings have held that the

THE INDIAN CRIMES ACT OF 1975

FEBRUARY 2, 1976.—ordered to be printed

Mr. McCLELLAN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2129]

The Committee on the Judiciary, to which was referred the bill (S. 2129) to provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended pass.

AMENDMENTS

- (1) On page 1, insert between lines 2 and 3 the following: "That this Act may be cited as the 'Indian Crimes Act of 1975'."
- (2) On page 1, line 3, strike the words "That section" and insert in lieu thereof the words "Sec. 1. Section".
- (3) On page 2, line 1, following the word "manslaughter," insert the word "kidnaping,".
- (4) On page 2, line 4, strike the word "kill" and insert the words "commit murder" in lieu thereof.

PURPOSE OF THE BILL AS AMENDED

The courts have held that the Indian Major Crimes Act (18 U.S.C. 1153), which designates major crimes triable in Federal courts when committed by an Indian in Indian country, is unconstitutional as applied where the definition or punishment of the offense is more onerous than that applied to non-Indian defendants charged with the same crime under 18 U.S.C. 1152.

S. 2129, as amended, would make amendments to present title 18 of the United States Code to clarify the applicable law and to insure equal treatment for Indian defendants accused of committing certain assaultive type crimes upon other Indians within Indian country. The amended bill also incorporates the provisions of S. 1263, introduced by Senator Abourezk on March 20, 1975, to add "kidnaping" to the Major Crimes Act.

HISTORY OF THE LEGISLATION

18 U.S.C. 1153 extends Federal jurisdiction to thirteen major crimes committed on Indian reservations by Indians. The original enactment was passed in 1885 to remedy the loophole contained in 18 U.S.C. 1152, which exempted "offenses committed by one Indian against the person or property of another Indian" from the general rule that the criminal laws of the United States applicable in any place within the exclusive jurisdiction of the United States, except the District of Columbia, apply within Indian country. The original enactment was limited to seven offenses.

The principal problems which the bill is intended to rectify stem mainly from amendments made to the statute in 1966 and 1968.

In 1966, the offenses of carnal knowledge and assault with intent to commit rape were added; the amendment further provided that assault with intent to commit rape be defined in accordance with the laws of the State in which the offense was committed; and the same amendment required assault with a dangerous weapon and incest to be defined and punished in accordance with the laws of the State in which the offense occurred.

The 1968 amendment added the offense of assault resulting in serious bodily injury and provided that it too be defined and punished in accordance with the laws of the State in which it was committed. A similar provision looking to State law for the definition of the crime of rape exists from an earlier time.

The difficulty with the current statutes lies in the fact that, as to some of the offenses—e.g., rape and the various forms of assault—there exist Federal statutes (18 U.S.C. 113 and 2031) applicable within the special maritime and territorial jurisdiction, that provide for their definition and punishment. Thus, by operation of 18 U.S.C. 1152, which renders those statutes applicable to offenses committed by non-Indians against Indians,¹ a non-Indian committing an assault or rape upon an Indian victim may be tried under a different standard and be subjected to a different penalty from that applicable to an Indian offender committing an identical crime, depending upon whether the State law defining and punishing the offense (which is incorporated under 18 U.S.C. 1153) differs from the Federal statute applicable through 18 U.S.C. 1152.

Recently, Federal courts have recognized that this procedure has the potential for invidious discrimination and have held 18 U.S.C.

¹ Although on its face 18 U.S.C. 1152 applies to crimes committed by an Indian that have a non-Indian victim, the courts have held that, in view of the overlap in this regard with 18 U.S.C. 1153, the latter statute must be utilized as the prospective vehicle in these circumstances, as to the crimes there enumerated, thus limiting 18 U.S.C. 1152 to non-Indian offenses. See *Henry v. United States*, 432 F.2d 114 (9th Cir. 1970), modified on rehearing, 434 F.2d 1283, cert. denied, 400 U.S. 1011 (1971).

1153 invalid as applied to Indian defendants where the State law's definition or punishment of the offenses (assault with a dangerous weapon and assault resulting in serious bodily injury) was more onerous than that which would have applied to a non-Indian charged with the same crime under 18 U.S.C. 1152.²

STATEMENT

The result of these decisions and of the present statutory system is to create a void within which certain extremely serious offenses by Indians cannot be federally prosecuted, notwithstanding the clear intention of the Congress in enacting 18 U.S.C. 1153. This is a situation that both Indians and non-Indians who reside on Indian reservations feel must be remedied, for the absence of any effective means to federally prosecute such offenders imperils the security and tranquility of reservation life.

As observed by Senator Fannin upon the introduction of S. 2129:³

The magnitude of the Indian crime problem on Federal lands should not be understated. Recent crime statistics attest to the fact that we do have a serious problem which merits immediate attention.

The major crime rate is about 50 percent higher on Indian reservations than it is in rural America as a whole. The violent crime rate on Indian reservations is eight times the rural rate while the property crime rate is about half the rural rate. The murder rate among Indians is 3 times that in rural areas, while the assault rate is nearly 10 times as high. The number of section 1153 cases involving Indian crimes has risen dramatically.

During the fiscal year 1973, the number of defendants against whom court actions—indictments, information removal, transfer, remand, appeal or superseding indictments—were begun under section 1153 totaled 404, 88 of which were within the Arizona district. By contrast, during fiscal year 1974, the number of defendants against whom court actions were initiated under section 1153 was 520 of which 110 were in my home State. As of December 1, 1974, there were throughout the country 587 criminal defendants who were subject to court actions pending under section 1153. Of this total, 120 defendants were Indians on lands within Arizona. From the start of fiscal year 1975 until December 1, 1974, court actions were initiated under section 1153 against 240 criminal defendants in Western districts, including 57 defendants in my home State. At the close of fiscal year 1974, 212 defendants had court actions pending under section 1153, including 29 in Arizona. It is obvious that major crime on reservations, as evidenced by the volume of Federal litigation against Indian defendants, is a serious problem. The situation is especially bad in Ari-

² See, e.g., *United States v. Cleveland*, 503 F.2d 1067 (9th Cir. 1974); *United States v. Analla*, 490 F.2d 1204 (10th Cir.), vacated and remanded on other grounds, 419 U.S. 813 (1974).

³ Congressional Record, pp. S 12692-S 12693, July 16, 1975 (daily ed.).

zona which in each instance has been second only to South Dakota in the total number of criminal actions during the past 2 years.

One of the effects of my bill would be to remove a serious legal obstacle to Federal efforts to control major crimes by Indians on Federal lands. This bill would provide greater uniformity in the definition and punishment of major crimes involving Indians. The due process and equal protection problems that have often hindered or even prevented prosecution of criminal offenders would be effectively removed. Thus the task of the United States attorney and other officials responsible for criminal law enforcement on Indian reservations would be made easier.

The most important result of this legislation, and the principal reason for its introduction, would be the beneficial effect it would have on the Indians themselves. This bill, if passed, would help to restore security and tranquility to reservation life. By increasing the possibility for effective prosecution of criminals, serious and violent crimes on Indian lands would be significantly reduced.

To remedy the constitutional infirmities in the present statutes the amended S. 2129 would, in effect, revert the Major Crimes Act to its pre-1966 form by amending 18 U.S.C. 1153 to insure equal treatment for Indian defendants accused of committing aggravated assaults upon other Indians within the Indian country. This involves deleting the language in 18 U.S.C. 1153 that currently requires looking to State law for the definition and punishment of the offenses of assault with a dangerous weapon, assault with intent to kill, and assault resulting in serious bodily injury. With this language deletion those offenses would be subject to the provisions in the first paragraph of 18 U.S.C. 1153, establishing the general principle that an Indian who commits any of the thirteen offenses enumerated therein "shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States."

To effectuate the purpose of the bill it is also necessary to amend 18 U.S.C. 113 (defining assaults within the special maritime and territorial jurisdiction) so as to define and punish the offense of assault resulting in serious bodily injury. Since 18 U.S.C. 113 presently contains no comparable offense, an alternative solution would have been to eliminate this offense from 18 U.S.C. 1153. This procedure was considered unwarranted since an assault that does in fact cause serious bodily harm deserves to be classed as a major felony. The Committee intends to preserve the basic congressional intent in this regard, as reflected in the 1968 amendment that added this offense to the Major Crimes Act.

As a further refinement to 18 U.S.C. 1153, the Committee has amended the bill so that the offense of "assault with intent to kill" will be "assault with intent to commit murder". 18 U.S.C. 113(a) currently proscribes an "assault with intent to commit murder". While the substantive difference between these two descriptions of the offense may not be great, there is legal authority to the effect that the two

crimes are not the same.⁴ A district court in Arizona recently relied on this difference in holding that the offense of assault with intent to kill in 18 U.S.C. 1153 was void for lack of a prescribed punishment, in view of the fact that 18 U.S.C. 113(a) did not define and punish the offense.⁵ By rendering the offenses in 18 U.S.C. 1153 and 113(a) identical, the reported bill obviates this apparent defect.

In addition to the offenses of aggravated assault, a similar constitutional problem is potentially present within the provisions of 18 U.S.C. 1153 for rape and assault with intent to commit rape. At present the Major Crimes Act refers to State law for definition of these offenses, yet allows the Indian to be imprisoned at the discretion of the court. However, 18 U.S.C. 113(a) (assault with intent to commit rape) and 18 U.S.C. 2031 (rape) provide the Federal law applicable to non-Indians who commit these crimes against other persons, including Indian victims. Here again, the policy of equal treatment requires that references to State law be deleted, and that these offenses be defined and punished according to Federal law. The reported bill implements these conclusions.

The reported bill would also add "kidnaping" to 18 U.S.C. 1153. This incorporates the provisions of S. 1263, introduced by Senator James Abourezk on March 20, 1975. Kidnapping is considered one of the most heinous offenses against the person. Under 18 U.S.C. 1201, when committed within the special maritime and territorial jurisdiction of the United States, kidnapping is punishable by up to life imprisonment. Thus, by virtue of 18 U.S.C. 1152, a non-Indian who kidnaps an Indian on an Indian reservation or an Indian who kidnaps a non-Indian therein, is subject to Federal prosecution and punishment under 18 U.S.C. 1201. An Indian who commits the same offense against another Indian, however, would not be federally punishable and would be subject to prosecution, if at all, only by a tribal court which can impose no more than six months' imprisonment. The disparity, which significantly discriminates against Indian victims, will be eliminated by the inclusion of kidnaping as a major crime under 18 U.S.C. 1153.

The reported bill also adds a new paragraph to 18 U.S.C. 1153 to provide for automatic referral to State law if Congress should add an offense to the section not otherwise found among the Federal enclave laws. Non-Indians who commit the same crimes are also prosecuted in such instances by reference to State law through the Assimilative Crimes Act, 18 U.S.C. 13.⁶

Finally, the reported bill includes language requiring current conformity with State law where State law is incorporated to define and punish certain enumerated offenses in section 1153 other than those defined and punished according to Federal law. Some courts have held that 18 U.S.C. 1153 incorporates State law only as it existed as of the last re-enactment of the Major Crimes Act.⁷ This interpretation of Section 1153 is at variance with the congressional policy as enacted in

⁴ See, e.g., *United States v. Barnaby*, 51 Fed. 20, 22 (D. Mont. 1892); *Jenkins v. State* 238 A.2d 922, 925 (Cl. Spec. App. Md. 1968); 40 C.J.S., p. 938.
⁵ *United States v. Ataha*, unpublished opinion, Feb. 10, 1971, No. CR-70-412. See also *United States v. Barnaby*, *supra* note 4.
⁶ See, e.g., *United States v. Burland*, 441, F.2d (9th Cir.), cert. denied, 404 U.S. 942 (1971).

⁷ See *United States v. Gomez*, 250 F. Supp. 535 (D.N.M. 1966).

18 U.S.C. 13, which mandates incorporation of State law as it existed at the time of the alleged offense. The reported bill will have the effect of conforming 18 U.S.C. 1153 to this salutary policy of current conformity regarding the assimilation of State law.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic and existing law in which no change is proposed is shown in roman) :

UNITED STATES CODE

TITLE 18—CRIMES AND CRIMINAL PROCEDURE

§ 113. Assaults within maritime and territorial jurisdiction

Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(f) *Assault resulting in serious bodily injury, by fine of not more than \$10,000 or imprisonment for not more than ten years, or both.*

§ 1153. Offenses committed within Indian country

[Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to kill, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

[As used in this section, the offenses of rape and assault with intent to commit rape shall be defined in accordance with the laws of the State in which the offense was committed, and any Indian who commits the offenses of rape or assault with intent to commit rape upon any female Indian within the Indian country shall be imprisoned at the discretion of the court.

[As used in this section, the offenses of burglary, assault with a dangerous weapon, assault resulting in serious bodily injury, and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed.]

Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnapping, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to commit murder,

assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

As used in this section, the offenses of burglary and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

In addition to the offenses of burglary and incest, any other of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.



INDIAN CRIMES ACT OF 1976

APRIL 13, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HUNGATE, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 2129]

The Committee on the Judiciary, to whom was referred the bill (S. 2129) to provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States, when said crimes are committed by an Indian, in order to insure equal treatment for Indian and non-Indian offenders, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 3, immediately after line 3, insert the following:

SEC. 4. Section 3242, title 18, United States Code, is amended to read as follows:

“§ 3242. Indians committing certain offenses; acts on reservations

“All Indians committing any offense listed in and punishable under the first paragraph of section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.”

PURPOSE

The purpose of this bill is to insure equal treatment for Indian and non-Indian offenders who commit certain offenses in Indian country.

BACKGROUND

Two basic statutes affecting criminal jurisdiction in Indian country are sections 1152 and 1153 of title 18, United States Code. Section 1152 provides in part:

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses

committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.¹

Section 1152 then goes on to state that it does not extend to (1) "offenses committed by one Indian against the person or property of another Indian"; (2) offenses committed by an Indian where the local law of the tribe has punished the offender; and (3) "any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes".

Section 1153 provides in part that:

Any Indian who commits [any of 13 enumerated offenses] against the person or property of another Indian or other person . . . shall be subject to the same laws and penalties as all other persons committing any of the above offenses within the exclusive jurisdiction of the United States.

It also provides, however, that four of the thirteen enumerated offenses—namely, burglary, assault with a dangerous weapon, assault resulting in serious bodily injury, and incest—"shall be defined and punished in accordance with the laws of the State in which such offense was committed." Two other of the 13 enumerated offenses—rape and assault with intent to commit rape—are also defined in accordance with State law, but the penalty provided is imprisonment "at the discretion of the court." The definitions of, and punishment for, the remaining 7 enumerated offenses are set forth in title 18 of the United States Code.

A determination of whether the State or the Federal government has jurisdiction to prosecute in a given instance and whether State or Federal substantive law applies, depends upon a number of variables—the offender's race, the victim's race, and the State within which the Indian country is located. There are four possible situations. First, crimes in Indian country where a non-Indian is the offender and an Indian is the victim. Second, crimes in Indian country where non-Indians are both the offender and the victim. Third, crimes in Indian country where an Indian is the offender and a non-Indian is the victim. Fourth, crimes in Indian country where Indians are both the offender and the victim.

Non-Indian against Indian crimes occurring in Indian country.—Section 1152 provides for Federal jurisdiction.

Non-Indian against non-Indian crimes occurring in Indian country.—Although the clear language of section 1152 seems to provide for Federal jurisdiction, the States have jurisdiction. *New York ex rel. Ray v. Martin*, 326 U.S. 496 (1946); *Draper v. United States*, 164 U.S. 240 (1896); *United States v. McBratney*, 104 U.S. 621 (1881).

The *Martin*, *Draper* and *McBratney* decisions do not appear to be constitutionally-based and would not seem to preclude the exercise of Federal jurisdiction. *Accord*, United States' Petition for Writ of Cer-

¹ "Indian country" is defined in 18 U.S.C. § 1151 to mean: (1) all land within the limits of any Indian reservation under the jurisdiction of the United States government; (2) all dependent Indian communities within the borders of the United States; and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way.

tiorari at 9 n. 3, *United States v. Antelope et al.* (U.S. Supreme Court No. 75-661, Oct. Term, 1975).²

Indian against non-Indian crimes occurring in Indian country.—There is Federal jurisdiction over such offenses. Two commentators assert that Federal jurisdiction is based on 18 U.S.C. § 1152. T. Vollmann, "Criminal Jurisdiction in Indian Country: Tribal Sovereignty and Defendants' Rights in Conflict," 22 *Kansas L. Rev.* 387, 391 (1974); L. Davis, "Criminal Jurisdiction Over Indian Country in Arizona," 1 *Arizona L. Rev.* 62, 71 (1959). However, it would seem that jurisdiction is based on 18 U.S.C. § 1153 when the offense is one of the 13 enumerated offenses. Section 1153 asserts jurisdiction when an Indian commits an enumerated offense "against the person or property of another Indian or other person . . ." (emphasis added).³

Indian against Indian crimes occurring in Indian country.—Section 1153 provides for Federal jurisdiction over the 13 enumerated offenses. Jurisdiction over other offenses rests with the tribe. See T. Vollmann, "Criminal Jurisdiction in Indian Country: Tribal Sovereignty and Defendants' Rights in Conflict," 22 *Kansas L. Rev.* 387, 390 (1974).

Exceptions.—The above pattern is subject to two overriding exceptions. First, some Federal laws have ceded to certain States complete or concurrent criminal jurisdiction over certain Indian country. For example, 18 U.S.C. § 1162 lists Indian country in 6 States in which the respective States have sole jurisdiction over "offenses committed by or against Indians . . ." (The six States are Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin.) New York has jurisdiction over crimes committed on Indian reservations in that State. 25 U.S.C. § 232. Another example is 18 U.S.C. § 3243, which gives Kansas concurrent jurisdiction over crimes "committed by or against Indians" and occurring on Indian reservations in that State.

The second overriding exception is for crimes that are peculiarly Federal. Thus, there is Federal jurisdiction when the offense is one such as assaulting a Federal officer (18 U.S.C. §§ 111 and 1114) or defrauding the United States. See, e.g., *Walks on Top v. United States*, 372 F. 2d 422 (9th Cir. 1967), *cert. den.* 389 U.S. 879; *Head v. Hunter*, 141 F. 2d 449 (10th Cir. 1944).

The Problem.—The problem to which this legislation is addressed results from the incorporation into 18 U.S.C. § 1153 of State definitions for 6 of the 13 enumerated offenses. If an Indian commits one of these 6 offenses against another Indian, then State substantive criminal law applies. For most offenses, the penalties of the State law also apply, but for rape of an Indian woman and assault with intent to commit rape upon an Indian woman, a convicted defendant "shall be imprisoned at the discretion of the court."

² The *Antelope* case involves the constitutionality of leaving to State jurisdiction non-Indian against non-Indian crimes that take place in Indian country. In *Antelope*, the Ninth Circuit reversed the first degree murder conviction of defendant Indians, who had been tried under Federal law. Had they been non-Indians, they would have been tried under State law. The Ninth Circuit noted that the law of the State involved (Idaho) is stricter in its requirements of proof than is Federal law. It concluded that the sole basis for the disparate treatment of Indians and non-Indians was race and that Indians were put at a serious disadvantage that could not be justified.

³ Because of the pendency of this litigation, the legislation does not address this issue. *Accord*, Note, "Red, White, and Gray: Equal Protection and the American Indian," 21 *Stanford L. Rev.* 1236, 1241 (1969).

If, on the other hand, a non-Indian commits one of these 6 offenses against an Indian, Federal substantive criminal law and penalties apply. The results can be that, in identical circumstances, an Indian is treated more severely than a non-Indian.⁴

For example, defendant Indian is charged under 18 U.S.C. § 1153 with assault with a deadly weapon in Arizona Indian country. Pursuant to § 1153, defendant Indian will be tried under the provisions of Arizona law. A non-Indian defendant who commits the same offense is charged under 18 U.S.C. § 1152 and will be tried under the provisions of 18 U.S.C. § 113 ("assaults within maritime and territorial jurisdiction").

The penalty under Arizona law for the first offense is imprisonment for *not less than* 5 years. The maximum penalty under Federal law is a \$1,000 fine and imprisonment for *not more than* 5 years. Thus, if an Indian and a non-Indian commit the same offense, the Indian faces the possibility of longer imprisonment.

Two Circuit Courts of Appeals—the Eighth and Ninth—have held that this denies Indians due process of law as guaranteed by the Fifth Amendment.⁵ *United States v. Big Crow*, 523 F.2d 955 (8th Cir. 1975); *United States v. Cleveland*, 503 F.2d 1067 (9th Cir. 1974). The Tenth Circuit has sustained the statute against a challenge that it sets up an unconstitutional racial classification. *United States v. Analla*, 490 F.2d 1204 (10th Cir. 1974), *vacated and remanded on other grounds*, 419 U.S. 813 (1974).⁶

The Committee agrees with the Attorney General that the effect of the *Big Crow* and *Cleveland* decisions by the Eighth and Ninth Circuits

has been to invalidate the authority presently available to the government under Section 1153 to prosecute Indians who commit either the crime of assault with a dangerous weapon or assault resulting in serious bodily injury on Indian reservations in states such as Arizona, where the local law is more severe than Federal law applicable within the Indian Country.⁷

⁴ It may also work the other way—an Indian may be treated more leniently. In *Gray v. United States*, 394 F. 2d 96 (9th Cir. 1968), defendant Indians challenged that part of 18 U.S.C. § 1153 prescribing imprisonment "at the discretion of the court" for rape of an Indian woman. The Ninth Circuit rejected the challenge, in part because "Appellants here seek to challenge as unconstitutional this statute, enacted by Congress, which is of benefit to them." *Gray v. United States*, 394 F. 2d 96, 98 (9th Cir. 1968).

The *Gray* decision is sharply criticized in Note, "Red, White, and *Gray*: Equal Protection and the American Indian," 21 *Stanford L. Rev.* 1236 (1969).

⁵ Analytically, the Indians are denied the equal protection of the laws, but the Fifth Amendment contains no equal protection clause. However, the Supreme Court has held that a denial of equal protection may be "so unjustifiable as to be violative of due process." *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

⁶ The Senate Report cites *Analla* for the proposition that Federal courts "have held 18 U.S.C. 1153 invalid as applied to Indian defendants where the State law's definition or punishment of the offenses . . . was more onerous than that which would have applied to a non-Indian charged with the same crime under 18 U.S.C. 1152." Senate Report 94-620, at 2-3.

The Senate Report's citation appears to be in error. *Analla* sustained the constitutionality of § 1153 in the face of an equal protection—due process attack. See *United States v. Analla*, 490 F. 2d 1204, 1208 (10th Cir. 1974), *vacated and remanded on other grounds*, 419 U.S. 813 (1974). In so doing, *Analla* overruled, *sub silentio*, an earlier decision of a district court within the Tenth Circuit, which had held: "The portion of section 1153 which relegates the definition and punishment of assault with a dangerous weapon to state law places defendant at a serious disadvantage solely because he is an Indian. This racial classification is not reasonably related to any proper governmental objective and is therefore arbitrary and invidious in violation of the Due Process Clause of the Fifth Amendment." *United States v. Boone*, 347 F. Supp. 1031, 1035 (D. N. Mex. 1972).

⁷ Letter from Attorney General Edward H. Levi to Speaker Carl Albert, May 20, 1975.

The Committee also agrees with the Attorney General that "a similar constitutional problem is potentially present within the provisions of Section 1153 for rape and assault with intent to commit rape."⁸ As the Commissioner of Indian Affairs has pointed out

the Federal Government is now unable to prosecute Indians who commit assault resulting in serious bodily harm in Indian country in either of these two jurisdictions [Eighth and Ninth Circuits], which encompass a major portion of Indian country under Federal criminal jurisdiction. The problem is acute and leaves Indian communities without the protection not only of Federal law but of any law except in the sense that a person might be prosecuted for a lesser included offense.⁹

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

SECTION 1

Section 1 of the bill provides that the short title of the legislation shall be the "Indian Crimes Act of 1976."

SECTION 2

Section 2 of the bill makes several changes in section 1153 of title 18, United States Code.

First, to correct the constitutional defect found by the Eighth and Ninth Circuits, it provides that the crimes of rape, assault with intent to commit rape, assault with a dangerous weapon and assault resulting in serious bodily injury shall be defined and punished in accordance with Federal law. Thus, an Indian and a non-Indian who commit any of these four offenses in Indian country will be held to the same standard.¹⁰

The bill also expands the list of enumerated offenses to include kidnaping. Under present law, a non-Indian who kidnaps an Indian in Indian country would be prosecuted under § 1152. That section incorporates the definition and penalty of the Federal kidnaping statute (18 U.S.C. § 1201), which imposes a punishment of up to life imprisonment.

However, an Indian who kidnaps someone in Indian country would be subject to prosecution only in a tribal court. Tribal courts can impose a maximum penalty of 6 months imprisonment and a \$500 fine.¹¹

Adding kidnaping to the list of enumerated offenses in § 1153 eliminates this disparity.

⁸ *Id.*

⁹ Letter from Commissioner of Indian Affairs Morris Thompson to Judiciary Committee Chairman Peter W. Rodino, Jr., February 12, 1976.

¹⁰ Two offenses—incest and burglary—are left to be defined and punished by State law. This will not give rise to the constitutional problem found by the Eighth and Ninth Circuits with respect to assault with a dangerous weapon and assault resulting in serious bodily injury. This is so because a non-Indian who commits the offenses of burglary or incest would also be tried using State law definitions and penalties. Since neither burglary nor incest is a Federally-defined crime, the Assimilative Crimes Act (18 U.S.C. § 13) provides that State law definitions and punishments are applied by the Federal courts.

The bill also provides that the State law to be used to define and punish the act is that which was in effect at the time the act was committed, rather than the State law provisions in effect at the time of the last reenactment of § 1153.

¹¹ 25 U.S.C. § 1302(7).

Section 2 also makes a conforming change in the title of one of the enumerated offenses in § 1153. Present § 1153 refers to "assault with intent to kill." The actual title of the offense defined in 18 U.S.C. § 113 (a) is "assault with intent to commit murder," so the bill changes the title of the enumerated offense in § 1153 to conform to the title in 18 U.S.C. § 113 (a).

SECTION 3

Section 3 of the bill amends 18 U.S.C. § 113 by adding a new subsection defining and prescribing punishment for the offense of assault resulting in serious bodily injury. This is necessary because § 113, which defines Federal assault offenses, does not presently contain this offense. Since this offense is one of the enumerated offenses in § 1153 that is to be defined and punished in accordance with Federal law, this amendment to § 113 is necessary to give substance to the inclusion of this offense in § 1153.

SECTION 4

Section 4 amends the venue statute so that venue is provided for all offenses punishable under section 1153.

OVERSIGHT

The committee makes no oversight findings.

COST

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, the committee estimates that no new cost to the United States is entailed by S. 2129.

NEW BUDGET AUTHORITY

S. 2129 creates no new budget authority.

STATEMENT OF THE BUDGET COMMITTEE

No statement on this legislation has been received from the House Committee on the Budget.

STATEMENT OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No statement on this legislation has been received from the House Committee on Government Operations.

INFLATION IMPACT STATEMENT

This legislation will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

COMMITTEE VOTE

S. 2129 was reported out of Committee on Tuesday, April 6, 1976, by voice vote. Twenty-four Members of the Committee were present.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

TITLE 18, UNITED STATES CODE

- * * * * *
- § 113. Assaults within maritime and territorial jurisdiction.
- Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:
- (a) Assault with intent to commit murder or rape, by imprisonment for not more than twenty years.
- (b) Assault with intent to commit any felony except murder or rape, by fine of not more than \$3,000 or imprisonment for not more than ten years, or both.
- (c) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by fine of not more than \$1,000 or imprisonment for not more than five years, or both.
- (d) Assault by striking, beating, or wounding, by fine of not more than \$500 or imprisonment for not more than six months, or both.
- (e) Simple assault, by fine of not more than \$300 or imprisonment for not more than three months, or both.
- (f) *Assault resulting in serious bodily injury, by fine of not more than \$10,000 or imprisonment for not more than ten years, or both.*

* * * * *
§ 1153. Offenses committed within Indian country[.]

Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, *kidnaping*, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to [kill] *commit murder*, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

As used in this section, the offenses [of rape and assault with intent to commit rape] *burglary and incest* shall be defined and *punished* in accordance with the laws of the State in which [the] *such* offense was committed [and any Indian who commits the offenses of rape or assault with intent to commit rape upon any female Indian within the Indian country shall be imprisoned at the discretion of the court.] *as are in force at the time of such offense.*

[As used in this section, the offenses of burglary, assault with a dangerous weapon, assault resulting in serious bodily injury, and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed.]

In addition to the offenses of burglary and incest, any other of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

* * * * *

§ 3242. Indians committing certain offenses; acts on reservations[.]

All Indians committing any [of the following offenses; namely, murder, manslaughter, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, and larceny on and within the Indian country shall be tried in the same courts, and in the same manner, as are all other persons committing any of the above crimes] offense listed in and punishable under the first paragraph of section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the same courts, and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.

○

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To provide for the definition and punishment of certain crimes in accordance with the Federal laws in force within the special maritime and territorial jurisdiction of the United States when said crimes are committed by an Indian in order to insure equal treatment for Indian and non-Indian offenders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Crimes Act of 1976".

SEC. 2. Section 1153, title 18, United States Code, is amended to read as follows:

"§ 1153. Offenses committed within Indian country

"Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, kidnaping, rape, carnal knowledge of any female, not his wife, who has not attained the age of sixteen years, assault with intent to commit rape, incest, assault with intent to commit murder, assault with a dangerous weapon, assault resulting in serious bodily injury, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

"As used in this section, the offenses of burglary and incest shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.

"In addition to the offenses of burglary and incest, any other of the above offenses which are not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense."

SEC. 3. Section 113 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) Assault resulting in serious bodily injury, by fine of not more than \$10,000 or imprisonment for not more than ten years, or both."

S. 2129—2

SEC. 4. Section 3242, title 18, United States Code, is amended to read as follows:

“§ 3242. Indians committing certain offenses; acts on reservations

“All Indians committing any offense listed in the first paragraph of and punishable under section 1153 (relating to offenses committed within Indian country) of this title shall be tried in the same courts and in the same manner as are all other persons committing such offense within the exclusive jurisdiction of the United States.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

May 24, 1976

Dear Mr. Director:

The following bills were received at the White House on May 24th:

S. 2129 ✓
S. 2498 ✓
S. 3399 ✓

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D.C.