ANB Says Hickel Creating 'Backlash'

GRAND CAMP
ALASKA NATIVE BROTHERHOOD
ORGANIZED 1912
February 19, 1967

TO:
HON. WALTER J. HICKEL
GOVERNOR OF ALASKA

The Executive Committee of the Alaska Native Brotherhood reviewed your reported speech of February 7, 1967 and beg leave to comment thereon as follows:

We except to the said speech because so much of it is not factual and contains serious errors in law, the particulars of which follows:

The claims of the natives are not against the federal government as claimed by you nor are they against the state.

Your statement that it has taken 35 years to resolve the one claim that has been adjudicated, the miscalculation is in figurating from the date of the enactment of the jurisdictional bill in 1935 and not from the serious prosecution of the case in 1954 which determined that the Indian title was a fact in 1959 for which the court affirmed the liability of the United States.

You have assumed that those who have taken land in one form or another are the legal owners but who are burdened with a flaw to the same. This is in reality a confession that the Indian title has not been extinguished and what you are really trying to do is for some one to remove the flaw.

While you would protect the property rights of the non-natives and natives you really mean just the non-native because there is no flaw in the Indian title.

(Continued from Page 2)

(See Demmert letter on page 6.)

THE NAKED TITLE . . .

(continued from Page 1)

You have failed to develop the history of native ownership and this has led you into the same serious errors of the Bureau of Land Management that you call a flaw in the title granted by the government to miners, homesteaders and bedevils the State in its land selections.

The first fact to be noted is this, towit, that in 1867 all of Alaska except a very small area was owned by the native tribes from time immemorial.

When the United States bought Alaska it obtained only the naked title because the natives were in actual occupation as that word is understood in international law so well described by our supreme court in several cases (Johnson vs. Higgins, Mitchell vs. USA, Worcester vs. Georgia, Chateau vs. Molong, Buttz vs. No. Pac. R.R., Holden vs. Joy, Beecher vs. Wisconsin, Cramer vs. USA, Walapai Indians vs.Santa Fe R.R. in 1941 and Tlingit & Haida Indians vs. USA in 1959).

So you and others should treat the claims of the natives as a fact which were in existence on May 17, 1884 when Congress enacted this law. This is the law that has prevented the Secretary of the Interior from confirming the state's selection.

When Congress gave the 103,000,000 acres to Alaska it gave only what it had, towit, the naked title. If your attorney general would read the above cases without bias, he would advise you that you got nothing but the naked title. The natives are owners of the equitable title. We know that your attorney has encouraged you to persist in your error.

The consequences of this bad advice to you and your predecessor are so serious that you have shut your eyes to the Indian ownership.

These consequences will continue until the Indian title is extinguished by an act of Congress or a quit claim by the native owners. This would solve your problem after the date of the quit claim but what of the money the State has collected wrongfully?

The solution offered by the natives is in the bill which you condemned for mistaken reasons.

You cannot resolve it by creating a white backlash. That only makes it worse. You will not accept the natives claim as valid because you want what is theirs. The only recourse left is for the natives to sue in ejectment with consequences abhorrent to the natives. So they propose a bill to define the rights of the parties. This you oppose.

Undoubtedly vast areas along the Arctic are still occupied only by aboriginal Eskimos, land that nobody cared for until exploiters desired the oil thereon. Even today none of these are residents and yet you wish to take land which has supported them from time immemorial while the State would take what is theirs by the terms of an international law which the white race seized on their own terms. To illustrate what could have been the Alaska situation:

The United States bought Louisiana from France for 15 million dollars and then paid the Indians in occupation over 800 million dollars for their equitable title. This is the pattern of international law. Can anybody explain why the Alaska case is different?

You can appeal to Congress and Congress could heed your appeal but Congress cannot enact an ex post facto law to secure the millions of dollars Alaska has taken from the natives.

The Natives have no need to appeal to Congress. There is ample law for their needs.

The Executive Committee of the Alaska Native Brotherhood however is conscious of the factual situation and would recommend confirmation of all title now in esse including that of the University of Alaska and some adjustment of the claims of the State.

Sincerely,
Special Committee to draw and present this resolution.

Frank G. Johnson

William L. Paul, Sr.