

House passes 1991 amendments

The U.S. House of Representatives passed AFN's 1991 amendment package to the Alaska Native Claims Settlement Act on March 31. The bill, H.R. 278, was introduced by Alaska Congressman Don Young, and passed without amendment by unanimous consent.

Congressman Don Young, in his address to House colleagues urging passage of the bill, stressed that H.R. 278 had nothing to do with tribal sovereignty.

"It deals solely with stock and land ownership," he said. "These are ownership issues of private individuals and corporations, not governments."

"The bill does not effect government powers, it does not grant new lands or funds and it does not have any significant fiscal impact on the federal government," Young said.

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Congressman Morris Udall of Arizona, Chairman of the House Interior and Insular Affairs Committee, which approved a bill identical to the one it passed out during the last session, also had something to say about the issue of 1991 and the concerns of tribal sovereignty advocates.

"The central purpose of this bill is to deal with the so-called '1991' issue. Under the Alaska Native Claims Settlement Act, the stock issued to Alaska Natives will become alienable on December 18, 1971. The prospect of the wholesale loss of their stock is extremely alarming to the Natives," Udall said.

"Unfortunately, the controversial question of the continued existence of tribal entities in Alaska has become a focal point of this

legislation... I want to reiterate my position that neither ANCSA as passed nor these proposed amendments affect in any way the question of whether there continue to be tribal entities in Alaska."

The legislation will now go over to the Senate, where Sens. Ted Stevens and Frank Murkowski are said to be pressing for quick action on the measure. The legislation will be assigned to the Senate Energy and Natural Resources Committee, where a similar measure died during the last session. Sen. Murkowski, a member of the committee, has said he will request committee hearings on the legislation, and on a substitute measure to be developed over Congress' Easter recess.

The Alaska senator told the Anchorage Daily News he expected the Senate substitute for H.R. 278 to "pretty much" resemble the Senate measure approved by the committee last year, but voted down by AFN annual convention delegates by a margin of 2-1.

"I do not intend to support any legislation that would foster, in any manner or form, sovereignty," Murkowski said.

Murkowski also said the success or failure of a bill this year to address the 1991 concerns may depend more on whether or not Natives can reach a consensus than on efforts in the House or Senate.

One of the key sticking points to acceptance of the legislation by the Native community last year was the inclusion of a strong anti-tribal disclaimer in the section which would make it easier for corporate shareholders to transfer land and other assets to non-profit, tribal or other entities.

Other provisions which greatly compromised Native support for the measure were those requiring regional corporations to pay fair market value to shareholders who exercised

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dissenter's rights; and one which would have allowed municipal governments to assess back taxes on Native lands at the time of their development.

The bill which emerged from the House last month has been criticized by many for its complexity, but its basic provisions would:

- ° Allow corporate shareholders to determine if and when to lift restrictions on the sale of their ANCSA stock.

- ° Allow shareholders to issue new stock to Native children born after 1971, elders, and those Natives who missed the original enrollment.

- ° Automatically protect undeveloped Native land from loss due to debt, bankruptcy, judgement, or squatter's rights.

- ° Automatically exempt all undeveloped Native land from taxation.

- ° Ease the procedural difficulties in land or other asset transfers from ANCSA corporations to non-profit organizations or tribal governments.

The provisions of H.R. 278 are based upon the eight original resolutions passed by delegates to the AFN Special 1991 Convention in March of 1984. The resolutions identify the problem areas with ANCSA, and direct AFN to seek legislative amendments to protect Native land and stock, and to incorporate into the settlement those Natives born after 1971, who received no stock or other stake in the settlement.

The Alaska Native Claims Settlement Act of 1971 granted fee simple title to Alaska Natives of some 44 million acres of land. It also directed the state and federal governments to disburse almost \$1 billion over a period of 12 years for the capitalization of 12 regional and over 200 village corporations. Native people each received stock in the regional corporation of their choice, and one of several village corporations within that region.

Under the terms of ANCSA, the stock could not be sold or lost for a period of 20 years. Land received by the corporations was similarly protected for 20 years after it was conveyed.

But the protections on the stock will be lifted automatically on Dec. 18, 1991. Many Native people fear that sale or loss of the stock will result in loss of the Native land base, which was made an asset of the respective corporations.

The Act has already been specifically amended six times.



AFN Special 1991 Convention.

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people would like to see in a 1991 bill. At the Juneau meeting of AFN's Full Board in February, the board instructed AFN to try to get as many of the provisions contained in the AFN/ANC bill into the House bill as were possible without jeopardizing the gains already contained in the House version.

We then travelled to Washington, D.C., and met with Congressman Don Young and Congressman Morris Udall, Chairman of the House committee on Interior and Insular Affairs. They advised us that seeking any amendments in the House could open the bill to amendment by other parties, who stood ready to introduce amendments on behalf of the National Rifle Association and the environmental community. Amendments from those groups would have been harmful to the intent of our legislation, and might have killed any chance of getting a bill this year.

It was at that point that we made a judgement that to offer any amendments, regardless of their merit, would jeopardize passage of the bill by the House, and we didn't feel we could take that risk.

At that point, AFN and the ANC decided to go our own separate ways on legislative strategy in the House. ANC felt very strongly that they needed to get amendments on the House side, while we felt that opening the bill up to amendments would hurt our chances of getting legislation. We also knew that we would have another opportunity to get changes on the Senate side.

Congressman Udall, Chairman of the House Interior and Insular Affairs Committee and a staunch supporter of tribes, also recognized the importance of getting a good bill passed out of the House, and said in a prepared statement at the

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bill's mark-up. "Unfortunately, the controversial question of the continued existence of tribal entities in Alaska has become a focal point of this legislation. Proponents on both sides of this issue have sought to use this legislation to further their positions. The Alaska Native Coalition is concerned that H.R. 278 is not neutral on that point and have strongly urged that amendments be adopted. While I can sympathize with their concerns, I believe that it is important to report this bill without amendment so that the primary goal of dealing with the 1991 issue can be met."

The congressman went on to add: "However, as one of the two committee members who was here in 1971 when ANCSA was considered and passed, I want to reiterate my position that neither ANCSA as passed nor these proposed amendments affect in any way the question of whether there continue to be tribal entities in Alaska."

With that statement, the bill passed out of committee on March 18 and was in turn unanimously passed by the House of Representatives on March 31.

Our attention now turns to the Senate, where we will face many of the same thorny issues as we did during the closing days of the last session. During the House hearings, the Secretary of Interior made his opposition to the bill public through a letter to Congressman Udall.

In his letter, the Secretary indicated that it was extremely unlikely that Interior would give even as much ground as they did in last year's bill. He said, in part: "As you may know, we worked with the Senate, the Alaska Federation of Natives, and other Alaska interests in the 99th Congress to modify the predecessor to this bill to reflect our concerns. At that time, we reluctantly agreed to a tentative compromise on this proposal, subject to its acceptance by AFN, which involved major changes not reflected in H.R. 278. This compromise was rejected by AFN at its convention by nearly 2-1. Therefore, we are no longer in a position to accept even that version of amendments to the original act."

In other words, as he told us at the end of last year, "All bets are off."

The opposition of the Secretary stems from his deep philosophical belief in the primacy of individual rights over group rights. He feels the bill is unfair to individuals who may wish to sell their stock. He believes that dissenter's rights should be mandatory.

Interior also objects to the provision in the bill

which would automatically extend the period of stock restrictions, unless lifted by shareholder vote. Their preference is to lift the restrictions in 1991 and then require those corporations who want to reinstitute them to vote to do so.

Interior insists that dissenter's rights be mandatory. This would mean that all those who disagree with the majority's decision to keep the stock restricted could require the corporation to buy back their stock at fair market value.

Secretary Hodel also feels that issuance of stock to Natives born after 1971 would dilute the value of the settlement for existing shareholders. He proposes the issuance of "life-estate stock," to our young people, which would revert back to the corporation upon their death, and could not be inherited.

Finally, the Secretary is committed to a decidedly non-neutral disclaimer in the section of the bill which deals with land and asset transfers to non-profits, IRA's or traditional councils. This

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disclaimer is supported by Sens. Stevens and Murkowski.

It was the inclusion of these objectionable provisions which led delegates to last year's convention to reject the Senate bill. So where are we now, as the process begins in the Senate?

In a joint meeting with the majority staff of the Senate Energy and Natural Resources Committee, AFN and ANC presented the AFN/ANC bill and discussed the changes we would like to see in the House-passed bill.

We were told that there will probably be a Senate substitute bill offered by Sen. Murkowski which would include many of the provision in last year's bill. We were told that the 1991 legislation will not address the issue of Native sovereignty, and that to attempt to do so would kill the bill.

We were also told that a hearing on the legislation would take place sometime before the end of June in Washington. The hearing will address H.R. 278 and the Senate substitute measure.

AFN is committed to getting a 1991 bill passed this year which contains as many of the provisions in the AFN/ANC bill as possible. We need a 1991 bill passed this year; there is so much work ahead of us — educating shareholders about the options this legislation will open up for them — that we cannot afford to delay another year.