

Native land settlement incorporates "new" self-determination concept

Editor's Note:—This is the twenty-ninth in a series of excerpts from the Alaska Native Land Claims book. It is the hope of the Tundra Times and the Alaska Native Foundation that the publication of the series will further the understanding and implementation of all parties involved and affected by the claims settlement act. The book was published by the Alaska Native Foundation in 1976. The first printing of the book has been sold out and is no longer available from the Native Foundation, however copies may be available yet from some bookstores. A decision has not been made by the Alaska Native Foundation as to whether a second printing of the Alaska Native Land Claims will be arranged. The production of the book was made possible by funds authorized by the Indian Education Act, supplemented in part by a grant from the Ford Foundation. Robert D. Arnold edited the text. Authors include Janet Archibald, Margie Bauman, Nancy Yaw Davis, Robert A. Frederick, Paul Gaskin, John Havelock, Gary Hothaus, Chris McNeil, Thomas Richards, Jr., Howard Rock and Rosita Worl. Excerpts from the book, Alaska Native Land Claims, by Robert D. Arnold et al. were copyrighted in 1976 by the Alaska Native Foundation, 515 D Street, Anchorage, Alaska 99501. No portion of this material may be reproduced without the permission of the Alaska Native Foundation. Completion of this book serial by the Tundra Times will be made in the June 15 issue. The Tundra Times is grateful to the Alaska Native Foundation for permission to reproduce these excerpts.



SELF DETERMINATION—AFN President Emil Notti told congressional committees that Native people wanted self-determination. He said, "There is a strong feeling among Native people in Alaska that they want to have control over their own destiny."

Since conveyance of land to Natives requires identification of easements by an Easement Task Force within the Bureau of Land Management, land would not be conveyed until a number of questions were settled. They were very much unsettled as 1974 drew to a close.

Municipalities

The third way in which land is to be transferred to the public is the requirement that each village corporation convey title to 1,280 acres of its land to its municipality for growth and expansion.

Unlike the village corporation which is organized for profit for its stockholders, municipal corporations exist to perform governmental services for all who live within its boundaries. These local governments may adopt rules governing conduct of their citizens, operate schools, provide police and fire protection, and carry out a host of other activities.

Only those who are stockholders are expected to benefit from village corporation activities, and it is only they who chose the board of directors. Until 1992, only Natives have such power in their corporations. City councilmen who guide municipal governments, on the other hand, are chosen by Natives and non-Natives alike who reside in the community.

Under this provision of the act about 260,000 acres of Native land is to be transferred to the ownership of municipalities. If city governments do not exist, the acreage is to be transferred to the State to hold until such time as they are established.

State land selections

While the settlement act did not provide for lands to go to the State, its passage allowed the State to resume the selection of land which had been halted by the land freeze.

Before the freeze had been imposed, the State had acquired or was in the process of acquiring patent to 26 million acres. This was about one-fourth the land acreage assured Alaska by the Statehood Act. By the end of 1974, State lands selected, tentatively approved, or patented totaled over 66 million acres.

Future selections of land by the State will be made from lands not chosen by Native corporations, from lands withdrawn to serve national interests ("d-2"),

but not established by Congress as conservation areas, and from lands which have been withdrawn for classification ("d-1"). If the State selects all land to which it is entitled it will hold over 103 million acres.

UNIT NINE Shaping the Future

"Many of the people I know don't understand [the act] and are fearful that actions will be taken to make money instead of doing what is right and just."

—Bella Hammond
Native News, May/June, 1975

In adopting the settlement act the Congress rejected reservations and other institutions or requirements that would suggest that Natives were wards. Under this settlement, there would be no government direction or supervision of the uses of land and money. What the settlement would mean in the lives of Alaska Natives would depend upon the meaning given it by Natives themselves.

When the Senate committee had reported its settlement bill in 1970, it had identified the controls over



OWN THEIR OWN—Rep. Nick Begich, reviewing land claims progress in this photo with Times' editor Howard Rock, believed the land claims act would permit "the social, economic, and cultural choices of Alaska's Natives to be made as independently as possible."



SUMMIT IN 1970—Persons prominent in settlement of Native Claims met at a luncheon in November of 1970 to review progress toward a land rights resolution. Pictured seated from left to right are: Senator Mike Gravel, Governor William Egan, Senator Ted Stevens, Rep. Nick Begich, State Senator Cliff Groh. Standing are, (Sen. Gravel Administrative Assistant), Joe Rothstein, (Alaska Attorney General) John Havelock, (Senator Steven's Aide) Ron Birch, AFN President Don Wright, (Wright Aide) Adrian Parmeter, and State Senator Willie Hensley.

land and money to be one of the principal departures from earlier Indian settlements. Although a modified bill became law, this feature was retained: the assets transferred to Natives would be managed and disposed of by them, either as individuals or through their corporations.

Natives had sought self-determination and, in the act, has largely won it. Through their corporations, Natives would decide what their goals would be and how they would be achieved. Self-determination was accompanied, however, by what some observers saw as the threat of termination — the ending of the historic relationship between Natives and the federal government.

The burden of the leadership of corporations is one of giving meaning to the settlement act. And in that task of shaping the future, a share is borne by all stockholders.

Chapter 37 Self-determination

During Congressional debate on the proposed claims settlement in December of 1971, Representative Nick Begich pointed out that its provisions emphasize Native self-determination. He forecast that the act would permit "the social, economic, and cultural choices of Alaska's Natives to be made as independently ... as possible."

In the Senate on the same day, Senator Mike Gravel expressed a similar view. Noting the economic resources that would go to Natives under the act, he said:

This will not insure dramatic improvements in their way of life, but it will give the Native people an opportunity to build and create on

their own, with their own leadership, in their own way, for the first time not dictated to by a non-Native bureaucracy thousands of miles away.

The theme was not new. Nearly four years earlier, Emil Notti, the president of the Alaska Federation of Natives had told a Senate Committee that, "Control by federal agencies over the resources and lives of Native people in Alaska has not met with any success." Notti had cited failures of canneries where managers had been chosen by the Bureau of Indian Affairs and said:

I point these things out because there is a strong feeling among the Native people in Alaska that they want to have control of their destiny. And if there are going to be mistakes made, we want to make them, not let the bad decisions be made in Juneau, or even farther away, in Washington, D. C. I stand here before you to state in the strongest terms possible that the representatives here today ... do not want paternal guidance from Washington, D.C.

Extent

The principle of Native self-determination — freedom from governmental control over decision-making — is a basic principle of the settlement act. Although there are some basic limits upon self-determination, they are fewer or of slighter consequence than in other settlements with Indian groups.

The vehicle of settlement itself — the corporation — is meant to be means of assuring self-determination by Natives. They chose their leaders — the directors — to make corporate decisions. Periodic elections are meant to allow them to reject those they believe to have served them poorly, and to replace them with others.



BUILD AND CREATE—Sen. Mike Gravel thought the Native Claims Act would give Natives "an opportunity to build and create on their own ... for the first time not dictated to ..."

Free simple title to land is being conveyed to corporations and individuals. It is not "restricted title" nor "trust land" which would require Natives to obtain approval from the Bureau of Indian Affairs for its sale or lease. Native owners of these lands, like any other owners of land, may decide independently whether to sell or lease.

Native corporations are likewise free to decide how to use the money received as a result of the settlement act. They do not have to submit a plan to the Secretary of the Interior for the use of funds before they obtain them, as did the Tlingits and Haidas for compensation they were awarded by the court. Neither are the corporations required to obtain governmental consent before they spend or invest their money.

Although there is no federal guardianship over the exercise of self-determination on land and money matters by the Native corporations, it should be recalled that the regional corporations have a guardian-like role with respect to village corporations. A regional corporation may withhold funds from a village corporation until it submits a satisfactory plan. A regional corporation may require village corporations to undertake projects of benefit to the region. The regional corporation also has the right to review land transactions proposed by village corporations. Furthermore, the regional corporation must approve any changes in the articles of incorporation of a village corporation for a 10-year period.

Some Limits

One of the major limits to self-determination in the settlement act is upon individuals. Natives may not sell or otherwise dispose of their shares in a Native corporation for 20 years after passage of the act. During that time the prohibition is thoroughgoing; the stock may not be alienated. After December 18, 1991, however, a stockholder is free to do as he likes with his stock. He needs no permission of any kind from government.

Next Week: Next week's serial will discuss regulations for implementation of the act which have limited Native self-determination, a viewpoint that Native land claims legislation is a "Terminationists" action, and a presentation of some goals and objectives of the Native corporations.