

WASHINGTON COMMENTS

Sen. Frank Murkowski



Senator Murkowski's Views On the "1991" Amendments

(The following is excerpts from Alaska Senator Frank Murkowski's opening statement on the proposed amendments to the Alaska Native Claims Settlement Act (ANCSA) during the August 4th hearing in Washington, D.C. Senator Murkowski chaired the hearing in the Senate Energy and Natural Resources Subcommittee on Public Lands, Reserved Water and Resource Conservation.)

In January, at the request of the Alaska Federation of Natives, the Alaska Congressional Delegation introduced legislation containing amendments to the Alaska Native Claims Settlement Act.

Prior to introduction of this bill, the House of Representatives held an oversight hearing in Anchorage in 1985. Since the bill's introduction, testimony has been taken in nine communities in Alaska. The House Interior Committee also held a hearing in Washington, D.C., at which some of you testified. More hearings have been held by the Senate on this bill than any Alaska legislation in recent history.

I personally have heard testimony from more than 250 witnesses in Hoonah, Barrow, Kotzebue, Anchorage, Bethel, and Fairbanks -- where I was joined by the distinguished chairman, Senator Malcolm Wallop. Senator Ted Stevens joined me for the hearings in Anchorage, and also held workshops in Juneau, Sitka, and Ketchikan. In total there have been 11 separate congressional forums at which Alaskans could voice their concerns on the 1991 issues. This is the 12th.

Throughout the hearing process we have heard from a wide variety of Alaskans -- state and local government officials, the oil and mining industries, environmental groups, sportsmen groups, Native organizations, gubernatorial candidates and other interested Alaskans. In addition, our offices have received numerous calls and letters from concerned Alaskans on the 1991 issues.

The public input we have received thus far has shown that there exists a wide range of opinion on several provisions of the 1991 bill.

On July 28th, the House of Representatives passed the 1991 amendments, H.R. 4162. A few changes were made to the bill as originally introduced. The principal change was a tightening of the tribal government disclaimer language. It is my view that these changes are not enough to ensure passage of the bill. It is my intention that the bill undergo additional changes before it is ready for floor action.

Many of the provisions of the bill provide options to Native corporations for addressing stock ownership and transfer questions. Dissenter's right, continuation of stock restrictions, and issuing stock to Natives born after 1971 are issues that fall into this category. Some changes will be needed on these provisions, such as the need for a uniform voting standard on all votes authorized by these amendments.

The principal responsibility for the policy decisions on these issues, however, rests with the Alaska Native community in consultation with the Department of Interior.

On the other hand, there are certain sections of the bill which have broader impacts -- they affect all Alaskans. Extending unlimited tax-exempt status to undeveloped lands and ensuring that the bill does not foster the establishment of sovereignty are two such issues.

The most controversial aspects of this legislation concern its secondary impacts -- how it affects the question of *Indian country in Alaska and sovereignty*. There are many different opinions on whether Indian country exists in Alaska and to what extent Alaska Natives possess sovereign powers of self-government.

Whatever the 1971 Native Claims Settlement Act allowed or disallowed with respect to these questions will remain unchanged by this bill. Senator Stevens, Congressman Young and I have consistently stated that the 1991 amendments will not foster sovereignty, nor will they detract from any self-government powers which Alaska Natives may now possess under existing law. In short, the bill will not tip the scales on these issues in either direction.

I have stated in my opening remarks at each hearing that I will not support any legislation which leads to the creation of a series of independent sovereign entities in Alaska. One can only imagine the confusion that would exist if the state and federal governments were required to enter into treaties with various sovereign Indian nations. I believe that such a situation is contrary to the best interest of all Alaskans -- Native or non-Native. From the standpoint of where we go collectively as Alaska citizens, it is our intent to retain the current form of government that we have -- and that is the government of the State of Alaska.

It is appropriate to discuss some of the changes which need to be made to the bill in order to address the concerns raised during the hearings.

On the issue of defining developed and undeveloped lands, we have several alternatives from which to choose. Under current law, Native corporation land is taxable 20 years after conveyance. This bill proposes to extend the immunity from taxation, as long as the land is not developed. In other words, if the land is developed or generates revenues it will be subject to taxation by the appropriate taxing body.

This proposal is acceptable provided we can all agree on a definition of developed. I have asked the Alaska League of Municipal Governments for their views on how undeveloped and developed lands should be distinguished for purposes of taxation. I will give serious consideration to incorporating the League's views into the definition of developed lands. It has also been suggested that we merely reference the current state law on this matter. That is something which will also be given a hard look.

The bill specifically grants Native shareholders the option to transfer their corporate assets to another entity -- for example, from a village corporation to a Native association. We will add disclaimer language to this provision which expressly declares that such a transfer shall not be used to: avoid taxation of developed lands; create or promote Indian country; or gain management responsibility for fish and game resources.

Further, the legislative intent language will spell out explicitly that the inclusion of these amendments will *not in any way* foster the creation of any sovereign states.

Simply put, whatever governmental powers that Alaska Native people had after the Alaska Native Claims Settlement Act will be retained. The corrective changes to be made to the 1991 amendments will put to rest any threat that *these amendments* will advance sovereignty.

With respect to sovereignty and Indian country, there has been considerable concern that the current provisions of the bill do not maintain the status quo, whatever that may be, on these issues. To address this situation, I intend to add additional language to two different sections of the bill. Section 8 will be amended to provide that nothing in the amendments shall be construed as enlarging, diminishing or in any way affecting the scope of governmental powers, *if any*, of any federally-recognized tribe, traditional Native council, or Native council organized pursuant to the Indian Reorganization Act.

Likewise, language will be added to Section 7 of the bill which expressly declares that a transfer of corporate assets shall not be used to establish or promote or enhance a claim of governmental authority of the entity receiving those assets.

The changes which we envision making will greatly improve the chances of getting the bill passed this year. Following this hearing, assuming we have a consensus of Alaskans supporting the changes which I have outlined, I would expect to continue to move expeditiously toward that goal.

In the next issue of the Tundra Times comments by Sen. Ted Stevens on the 1991 amendments will be printed.