

# GOV. HICKEL'S TUESDAY SPEECH

(Editor's Note: The following is Gov. Walter J. Hickel's speech on Native land claims in its entirety. The speech was heard throughout the state last Tuesday.)

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This is Governor Hickel. I would like to talk to you for a few minutes about native land claims—claims that affect you already or could affect you in the near future.

Recently, various groups of our native people have claimed that they own parts of our state and they have filed notice of their claims with the Federal Bureau of Land Management. Property that you own or lease may be in an area that they have claimed. This is the greatest state in the union with an area of 586,400 square miles. Right now our native people have claimed that they own 400,000 square miles of it, or approximately 68 per cent.

Their claims are against the Federal government and I do not oppose them. In fact, I have acted and will continue to act so that our native people will get a quick, fair and just determination of their land claims. In the past such claims have taken 35 years or more to resolve. The native people of Alaska deserve quicker action than that, and we will see to it that they get it. We will also protect the property rights of all Alaskans native and non-native alike.

If you own property in any of the areas that are claimed, I am sure you know that the native claims cast a cloud on your title to the land—a cloud which could affect the future value of the land itself.

These claims, sometimes called Indian Title, could cover the whole state in the future, and not only will they make it difficult to sell property but they will put a strong brake on any person or company that wants to develop it. Because the ownership is uncertain people will be reluctant to buy land or to lease it as long as these claims remain unsettled.

As you can see, native land claims can create an extremely difficult situation for all of the people in the State of Alaska, one that could seriously hurt our growth and development.

We have already taken steps to avoid that difficult situation, and we are working on a comprehensive, positive program that will serve the best interests of the State of Alaska and all its people.

In the present situation the natives have filed their claims against the Federal government. These claims include Federal lands and they include land disposed of to third parties: homesteads, state lands, patented mining claims, and the like.

Our natives claim, under "Indian Title," that the land is theirs because they have used it and occupied it "since time immemorial" hundreds of years before the United States purchased Alaska from Russia.

How do I feel about these claims? I do not oppose the right of the natives to file their claims. I only oppose the danger that will be created by not settling them quickly and fairly. The claims create a problem that affects all Alaskans, native and non-

native alike, and as Governor of Alaska I will do everything I can to solve that problem with fairness and justice. Where our native people have just and legally supportable claims for compensation we will do everything possible to promote their speedy and just determination.

Many people believe that the United States Congress will have to pass a special law before any native land claims can be determined legally. We agree that Federal legislation may be necessary.

Now, along that line the Alaska Federation of Native Associations has proposed a bill—one that has been publicly supported by Attorney Stanley McCutcheon, who represents several native groups.

Since all Alaskans may be directly affected by native land claims in the future, I want everyone to understand what this proposed bill would do. Then Alaskans may decide for themselves whether this proposed bill or possibly some other bill should be supported.

The bill proposed by the Alaska Federation of Native Associations would force our selection program to a halt in any area where a claim has been filed. Under the Statehood Act we have been allowed 25 years to select approximately 103 million acres of Federal land as state property. We have 17 years left and only 17 per cent of that acreage has been selected. If native groups continue to file claims until the entire state is blanketed, our land selection program would be completely halted.

Beyond that, those claims might prevent the Federal government from issuing oil and gas leases or granting land for power sites, airports, schools, highway right-of-way and homesteads.

Another part of this proposed bill would change the law to give the Federal Court of Claims the exclusive authority to determine whether the natives of Alaska have Indian Title to the lands they claim. Until now only the Congress has been able to do that.

This proposed bill grants the Court of Claims authority to give the natives ownership of the land where Federally-held land has been claimed. Never before in the history of the United States has the Court of Claims been given power to award ownership of land on Indian claims. Up to this time the Court has made only monetary settlements.

We see then that under this this proposed bill a state selection of land, a homestead patent or any Federal land transaction would be held up in the area of any native land claim, and we see that if a claim is determined to be valid, the native group involved would be given ownership of the land.

That ownership would wipe out forever any future state land selection or homestead in the area where a claim was recognized.

Where the Federal government has already disposed of land to a third party—whether it be a miner, a trapper, or you—this bill suggests something different. If "Indian Title" is held valid in these

cases, the Indian group making the claim would be given the fair market value of the land at the time it was disposed of by the United States.

We have used the term "Indian Title" several times. This title to the land is claimed, according to the proposed bill, "by virtue of aboriginal use and occupancy of such lands from time immemorial."

"Use and occupancy" has been a standard test in matters like this for some time. What it means, simply, is that a stranger walking over the land in question could see a smokehouse, or a dock piling, or some other indication that the land was in use and occupied.

This has always been the accepted test in the past. I fully support it and I urge that our native people be given full title to lands in every case where their claim qualifies under the existing standards of use and occupancy laid down by our courts. I further urge that all legal obstacles that keep them from getting full title to their land in this fashion be removed.

However, the proposed bill would extend "Indian Title" to other lands by changing the application of the use and occupancy test. Under this proposed bill Indian Title would be given lands where they were abandoned by the natives of Alaska involuntarily or abandoned because of lack of game or other changed conditions not under their control.

What this means is that if someone hunted moose around Anchorage or Fairbanks 200 years ago or chased migratory caribou over land that no longer supports caribou grazing, a native group could claim that land today.

At present some 68% of our state is claimed by various native groups.

The proposed bill I am talking about would allow another three years—or four, if a time extension could be justified—for further claims to be filed. This drastically changes present Federal law.

It also provides that no filing or other fees shall be paid to the government.

But incidentally, it provides that the attorneys for the various groups shall get a fee of up to 10% of the amount recovered. Those attorneys—some of whom wrote this proposed bill—stand a chance of becoming the biggest private land holders in the United States.

Many concerned citizens have asked me to state my position on this bill and on the native land claims issue.

As for this bill, I oppose it. It could stalemate our land selection program and keep the Federal government from issuing oil and gas leases, and from granting land for power sites, airports, schools, highway right-of-way and homesteads.

As for the native land claims issue, there are several points I will touch on briefly.

Some irresponsible people already have tried to make a partisan issue, a political football, out of the native land claims. They are using the hopes and aspirations of

our Alaskan natives for their own ends.

If we were concerned about politics in this situation, we would have done nothing and let everyone feel happy until one day we had a crisis. But I believe that the good of the entire state and all of its citizens, native and non-native alike, is more important than any simple political matter. I have acted and will act firmly and directly to avert any crisis. I feel it is better to prevent a disaster than to mop up after one.

Those who would make a political question out of this serious matter are playing with the future of the state. They are dividing the people when what we really need is unity and understanding.

**WE DO NOT OPPOSE THE CLAIMS OF ALASKA'S NATIVES AGAINST THE FEDERAL GOVERNMENT.**

They have every right to make those claims, and we will do everything in our power to see that there is a speedy, fair and just determination of them.

It has been charged that we oppose the use of the Court of Claims in this matter. That is not true. We only oppose legislation that will change the historic use of this court, and the bill I have discussed today does just that. We will support the use of the Court of Claims or any court if it will allow the continued development of our state and protect the interests of all of our citizens.

We will support appropriate legal actions in the Federal courts to test the validity of these claims. We will draft and introduce state legislation. We will support any action designed to bring about a speedy, fair and just determination of the native claims.

I have hired special legal counsel and have taken other steps to bring together the best minds available. They will analyze the present situation, and we will make concrete proposals for action. Every state department involved in these land claims has been told that they are a matter of top priority.

We will continue to work for the social and economic betterment of the Alaskan natives, and of their fellow citizens.

In the very near future we will put before the people of Alaska a specific and detailed program to carry out the principles I have mentioned. We will work for the good of the state, and all its people, as we follow our course "North to the Future."