

# ANCSA: greatest thing ever accomplished

by Perry R. Eaton

for the Tundra Times

In 1971, the passage of the Alaska Native Claims Settlement Act was, I believe, the greatest thing that the Alaska Native people had ever accomplished. There is no doubt that the achievements which the Act represented were miraculous. Given the history of American Indians and particularly Alaska Natives, the terms and conditions of that settlement reflected a unique approach by both the federal government and the original land owners - in this case, our people. Now when we criticize the Act in 1985, it is terribly important to keep in mind what our leadership in the late

1960's and early 1970's had to deal with, and particularly the alternatives open to them.

Study of American Indian policy shows that traditional aboriginal settlements have historically taken the form of a reservation and a cash payment. In 1971, the government of the United States recognized that that particular form of settlement did not work and was not in the best interest of Americans and particularly Native peoples. It is admirable that our leadership did not opt for small reservations in the tradition of our American Indian brother. This deviation from the Congressional norm is perhaps the single most unique

feature of the settlement act of '71.

During the 60's and 70's a major theme in American Indian policy was self-determination and we can see that it played a dominant role in the design of the settlement act. The Act gives us almost total control over our settlement proceeds. The institution of the corporation gives us equal economic status with other asset holders in the market place. It has given us economic power heretofore unheard of in the Native American community.

However, the Act does not maintain or perpetuate our ethnic identity. In fact, I believe it does (Continued on Page Nine)



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just the opposite - that it terminates the Native identity with the land, because of two major fallacies within the Act.

The first fallacy has to do with stock - as stock. The Act takes all of the land and the indemnity payments of \$962.5-million for land that could not be returned to us, and divides it among institutions (in this case corporations). It gives us as individuals, ownership interest in the corporations through our stock; the Act therefore gives individual people something that has always before belonged to the people as a whole. It is culturally wrong to take community property such as our lands represent and give it to individual owners.

Perhaps the issue of "member" vs. "owner" is the key here. Under ANCSA, we are not members of a tribe which owns our company; we are thus not "Natives" owning a piece of our company; we are only "shareholders" owning a piece

of a company. This ownership does not give us any Native rights - it does not give us any Native identity. It does not make us "members." The difference between an owner of a corporation and a member of an ethnic group is one of the philosophical problems that I have with the land claims settlement act. The benefits of the Act were awarded because of our membership in the Native community, but we received them as individuals.

Perhaps if one could go back and rewrite the Act, the 20 year provision for non-alienable stock might well have been written to permit us to own the stock at the end of 20 years. In other words, we might have begun with membership organizations and converted eventually to owners' organizations. Then the debate today would be whether or not to issue stock to individuals or to maintain or recreate membership organizations.

The second argument I have with the Act is the form of title that we took to our land. We took "fee simple" title as corporate assets. The nature of "fee simple" title is trade, and is designed to change ownership frequently. The only reason to hold a fee simple land base is so that the land can move among users to the

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highest and best use within the economy. But if land trading among owners is not desired, people reserve the land for a special purpose. For instance, it can be made a park, and that's not fee simple land. It can be made a wild and scenic river, or a wildlife refuge, a national forest, a state forest or any of a number of other government or community controlled lands. Then it becomes trust land held in behalf of a group of people - not single individuals - but a group of people.

And I believe there must also be heritage lands; there must be cultural lands; there must be lands set aside that we as Natives know will always be there and to which our people will always be attached. The land can't belong to in-

dividuals, it must belong to us as a group. We should have a second round selection among our 43.7 million acres. A relatively small selection, say 4 to 10 million acres, could be set aside as cultural or heritage lands for the people in perpetuity, maintaining our ethnic identity. Without such a land base, we are not a people.

I believe the proper group to control such lands are the villages as tribal entities. I think that village really translates into tribe and it is that unit of people in Alaska which influences us as individuals in our lives and our cultures.

To believe that 1991 legislation will write the final chapter and solve all our problems is, of course, naive. It is only one more page in the history of the in-

digenous peoples of the North American continent. We will always have to fight for what we want and we will constantly have to engineer and work with laws that bring justice within our cultural values. We will always have to fight to protect that which we have gained.

To argue that the land claims should be thrown out is absurd. It must only be fine-tuned to better serve the people. When we read the Act today, the only thing left out of the Act is the Native people as Natives. We are there as shareholders, but we're just not there as Natives. It is time to put the Natives back in the settlement act and put the people back on the land.

The Alaska Federation of Natives convention coming up this week will go a long way

towards ironing out many of our differences, and the amendments proposed are basically good amendments. If anything, they don't go far enough. They are only a start, and even if we pass them in convention and we go to Washington, D.C., the final law coming from them may vary greatly from what our expectations are today. We must constantly be designing and working towards new laws and new amendments and new adjustments that serve our people as Native people, not only as shareholders, but as Native people.

Our corporations have economic power unforeseen. However, they are only a beginning. The next step must lead to perpetuating an ethnic entity. Village cultural control of a land base is the only way to safeguard

a cultural future. It's a logical progression in the perpetuation of our people.

All in all, given the immensity of the settlement act of '71, we have indeed progressed very well as a people. We have a new pride and confidence. We are moving toward unity that was not here before. We have leadership that was underutilized. Our youth have a future. Our arguments today are spirited and open, with communication between ethnic groups at an all time high. We are people - we know who we are and we can openly argue about what we want for ourselves and each other. This has never before been the case in the history of our peoples. In general, it is a good time to be an Eskimo, Aleut, or Indian in Alaska. That is a tremendous achievement.