

# Prof warns of possible land loss in 1991

by Pat Zuend

For the Tundra Times

"1991 might mean Natives could suffer the permanent loss of their land base and by that, the Natives could lose the right to fish and hunt for subsistence as they have done traditionally." This potent message was outlined by Ralph Johnson, professor of law at the University of Washington in Seattle.

"A major corporation in the lower 48 could take over any one of the Native corporations. It would take great skill and cash but could happen. The Natives would then only be left with the land they live on and no trespassing signs could be put up on the surrounding lands which would put an end to subsistence hunting and fishing and would be a permanent loss of their land base," said Johnson. Such were the discussions at the roundtables in Anchorage during which Johnson was an expert panelist in March, November, and December 1984 with Justice Thomas R. Berger and the Alaska Native Review Commission.

Justice Berger conducted approximately 60 hearings in the bush communities of Alaska as commissioned by the Inuit Circumpolar Conference. The Inuit Circumpolar Conference (ICC)

Photo by Pat Zuend



*Professor Ralph Johnson*

represents the Eskimo peoples of Canada, Greenland, Iceland, and Alaska. The ICC sees the failure of the Alaska Native Claims Settlement Act of 1971 (ANCSA) as accomplishing certain expected goals. These failures would involve the loss of land, the loss of subsistence, and the split in ownership (pre-1971 and post-1971).

Now, six years away from 1991, ANCSA has failed in the expectations of those who supported it. "There is a great fear of the loss of subsistence," says Johnson.

Of the 212 village corporations formed in 1971 under the Alaska Native Claims Settlement Act, most received only a couple hun-  
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# 1991: Ralph Johnson

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dred thousand dollars and were expected to make money. There was clearly a conflict of goals to either make money or do good for the community. Currently, 14 years after they were formed, there are only 30 successful village corporations left. The corporations in existence around Anchorage merge and form new businesses with ease and won't feel the impact as much as the bush corporations will.

The most acceptable, feasible and attainable option available, in theory, to prevent the loss of the land base in 1991 to outside influences, is to have a legislative enactment to declare that the sale of stock would be limited to Natives. This would solve the disenfranchisement of Natives born pre-1971 and post-1971. This would create a membership government and not a stockholder government as is currently foreseen.

"The legislative solution is the cleanest alternative to prevent the loss of the land base and possible loss of subsistence," reports Johnson.

Other alternatives discussed by the ANRC, could be formal action taken under the Indian Reorganization Act (IRA). The IRA provides a formal governing format within each village that drafts ordinances for review and approval by the Secretary of Interior. Not every village is a member or part of the Indian Reorganization Act.

Another alternative is to reconstitute the villages to have government ownership of the land. This self-help method would involve asserting govern-

ing power including control of the land base. To implement the self-help alternative would involve action by the corporation and other governing structures and some advice of good lawyers.

"Sovereignty and governance are one in the same," says Johnson. In Native Alaska there are four types of governing structures: there is the municipal under state law, the village corporation, the Indian Reorganization Act (IRA), and the traditional government structure.

Four governing structures can occur in the same locality. They are even made up of the same people, who, for each governing board meeting, must "wear a different hat" and be familiar with the different forms.

Native corporations now are controlled by state law. Alaska's voting power is shifting toward an urban and non-Native population. "Historically, the states have been more hostile towards Native rights and now it is happening in Alaska with fishing, hunting, and land. The greatest friction is between sport and subsistence fishing and hunting. Subsistence to Natives is a matter of life or death. In 1886 the U.S. Supreme Court said the local population is the worst enemy of the local Indian," said Johnson.

17 percent of the population in Alaska is still Native. There are two trends in Alaska without regard to the Natives. The voting population is becoming more urbanized and there are more non-Natives. Politically, Native voting power will predictably diminish as more non-Natives move to the urban areas. This shift could be seen before 1991 when the bush or villages and Natives were reliant on the votes of others to decide the land issue.