

# Kasayulie explains opposition to 1991 bill

*Editor's Note: The following is a letter from Willie Kasayulie, chairman of the Alaska Native Coalition, to all IRA and traditional council presidents in Alaska. It spells out the coalition's objections to the 1991 legislation.*

This letter is written on behalf of the Alaska Native Coalition requesting you to join with us in opposing further action on Senate Bill 1145, sponsored by Sens. Ted Stevens and Frank Murkowski until after the Alaska Federation of Natives Convention in October.

As you are probably aware, the Stevens-Murkowski bill is virtually the same bill that the AFN Convention overwhelmingly rejected last October because it would have required our people to sacrifice rights to tribal self-government in order to protect Native ownership of our land.

The convention delegates directed the AFN board to work with the Alaska Native Coalition and jointly develop legislation which would protect Native land ownership and provide a tribal option offering a way out of the corporate system.

At the same time the amendments were to remain neutral on the question of tribal sovereignty. These directions were followed and the two organizations jointly drafted a substitute bill which would accomplish these objectives.

Stevens and Murkowski have, however, adamantly refused to even consider this substitute bill. Instead, they have demanded that the Native community accept S. 1145 as is, or in the alternative accept it with the tribal option (QTE) deleted.

As a practical matter, adoption of 1991 legislation without a tribal option may forever prevent Native councils from exercising most governmental powers, or from asserting their rightful role and authority as protectors of the land for future generations.

On June 26, 1987, much to our surprise, and without consulting the coalition, the AFN gave in to the Alaska senators and agreed to eliminate the tribal option.

Moreover, it promised not to seek amendments to improve the bill in the Energy Committee, the full Senate or the House/Senate Conference Committee. In short, the AFN has abandoned all efforts to secure passage of



the kind of 1991 bill which the AFN convention demanded last year.

In our view, the AFN's surrender is unjustified as well as unauthorized without the consent and approval of the people. It is unjustified because the AFN has not made a good faith effort to secure passage of the joint AFN-ANC substitute bill.

The AFN has never requested a single senator from outside Alaska to sponsor the AFN-ANC bill.

The Alaska Native Coalition, on the other hand, has contacted and sought the support of all 100 senators. Numerous senators and their aides have expressed support for the coalition's position, but without a united Native position, they have been unwilling to publicly oppose the Alaska senators.

With AFN's strong unwavering support, we are confident we can win this struggle. It is a battle which must be won. The permanent damage to Native rights which the Stevens-Murkowski bill will impose may be summarized as follows:

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•First, the bill fails to provide any protection whatsoever for Native ownership of developed lands. In other words, that portion of the core area of Native villages owned by corporations would remain unprotected and could be lost as a result of tax foreclosure, bad debts or bankruptcy. In short, the bill fails to accomplish its first objective — to protect Native land ownership.

•Second, S. 1145 fails to offer a way out of the corporate system. Although as presently drafted, it authorizes the transfer of lands from

Native corporations to Native tribes, it would prevent a court from considering tribal ownership of the land in determining the existence of "Indian country."

As a practical matter, this could destroy the argument that "Indian country" exists in Alaska. "Indian country" is the geographic area over which tribes may exercise their governmental powers.

Without "Indian country," Native tribes will be reduced to the status of social clubs. Accordingly, few if any villages would be willing to utilize the tribal option and thereby forever sacrifice their powers of self-government.

Tribes elsewhere in the United States are recognized as having self-governing rights over their respective territories. There is no justification — legal or moral — for denying Alaska Natives the same basic rights. Further, with the tribal option provision deleted — as the AFN has agreed to do — villages will be denied the opportuni-

ty to opt out of the corporate system. Such an option must be available in order to allow true self-determination for Alaska Natives.

•Third, S. 1145 discriminates against Alaska Natives in several other respects. Tribally owned lands elsewhere in the United States are immune from state powers of taxation and condemnation.

S. 1145 expressly authorizes taxation of Alaska Native lands transferred to a tribe pursuant to the act. Similarly, it extinguishes their immunity from the state power of emi-

nent domain (condemnation). Not a shred of evidence has been produced to support, much less justify, this discriminatory treatment. There is none.

Finally, S. 1145 would destroy the secretary of the Interior's power to take land in trust on behalf of Alaska Native tribes. Again, the secretary has such power in the Lower 48 states and there is no basis for denying Alaska Native tribes the basic land protections of trust status.

The flawed provisions of S. 1145 are not minor technical oversights. They represent a fundamental and deliberate national policy shift and strike at the very heart of Native self-government as well as the historic and unique trust relationship between the United States and Alaska Natives.

Such a radical change in course should not be allowed to go unchallenged simply at the whim of the two senators from Alaska.

The current Senate bill discriminates against Alaska Natives. Discrimination, wherever it is practiced, is a national issue. Moreover, if the Alaska senators can succeed in depriving the rights of Alaska tribes, the rights of tribes everywhere are in jeopardy. This is the reason that every national Indian organization joined with the coalition to kill the Stevens-Murkowski bill last fall. In addition, many of the national church organizations actively support the coalition's position, primarily on the ground that the Senate bill overly discriminates against Alaska Natives.

Any decision to drop the tribal option provision should not be made during the summer when our people are fishing or engaged in other summer activities. Such a critical move must only be made after the people who will be most affected — the villagers — have a chance to discuss and vote on the issue this October.

Your support at this time is crucial. It is critically important that the United States Senate know just how strongly you feel about protecting our land and our tribal powers.

We therefore urgently request you to immediately write the senators on the Senate Energy and Natural Resources Committee. Ask them to take no action on S. 1145 until after the AFN Convention in October.