

Outside Indians give views on ANCSA

By Bill Hess

Tundra Times

After a week of testimony challenging and championing the concept of Indian sovereignty, United Tribes of Alaska vice president Sheldon Katchatag issued a strong plea for Native-owned lands in Alaska to be placed under the control of village tribal governments.

"We at the village level have never been asked how we feel about these things," spoke

Katchatag before Canadian Judge Thomas Berger, head of the Alaska Native Review Commission.

"What we're asking for is the respect that we have the ability to manage our own affairs." Katchatag lives in the Bering Sea village of Unalakleet. He told how decisions governing the land and lives of the village people are always made by outsiders, resulting in unnecessary complications and problems for

the villagers. "Even if you have our own best interests at heart, it's still considered meddling," he explained.

Katchatag made his comments during the second week of overview hearings being held in Anchorage by the ANRC. The commission was formed last summer by the Inuit Circumpolar Conference, a coalition of Eskimo groups from across Alaska, Canada, and Greenland, to conduct

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Outside Indians give views on sovereignty, termination, land ownership

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a two-year study into the effects of the Alaska Native Claims Settlement Act on the indigenous people of Alaska.

The World Council of Indigenous People has since joined ICC as sponsors of the commission. During a week of village hearings in Emmonak and Tununak, and at the first two weeks of overview hearings in Anchorage, the commission heard repeatedly the concerns many Alaska Native people feel for the fate of their lands once the regional and village corporations created by ANCSA become subject to taxation and alienation into non-Native ownership in 1991.

Another major concern has been the status of Alaska Native children born after December 18, 1971. They were not given either shares or land under ANCSA, making them the first generation of Alaska Natives who, by law, are cut from the ties their ancestors have always had with the land, unless they receive shares through inheritance or purchase.

"There is resentment by the man in the village that this was decided without him," said Katchatag, adding that in his opinion the best solution for solving the problem would be to take the lands, both surface and subsurface, which now belong to the village or regional corporations and turn them over to the village Indian Reorganization Act and traditional tribal governments.

Under ANCSA, which left Alaska Natives with 44 million acres of land and just under \$1 billion in compensation for lands lost, the 12 regional corporations own the subsurface rights to the village lands as well as their own. Katchatag suggested that perhaps some of the regional lands could be turned over to the village governments as well.

Although Katchatag's plea was not a new one, it differed from most similar proposals in that it did not call for the lands to be held in trust for Native people by the federal government. On most reservations and Indian trust lands, the United States government considers itself the legal owner of the land.

Under this concept, the land newborn children were not recognized as "in trust" for the use of the Native people by the U.S. Secretary of the Interior. It is not subject to taxation, and cannot be sold or transferred out of an act of Congress.

While many proponents of tribal government ownership of land in Alaska have argued that the problems of 1991 and the children born after ANCSA, could be solved by having ANCSA lands taken back into trust, Katchatag argued that tribal ownership would be enough to secure their safety.

"I really don't feel the Native people would entirely trust the federal government after the treatment they have re-

ceived," Katchatag explained. "We trusted everything, and I mean everything, about our lives to the federal government and now we have to claim it back!"

Katchatag also questioned whether he would want a nation with a \$1.6 trillion national deficit or whatever to "hold anything in trust for me."

He did not accept the argument that Native people are any more incompetent in dealing with western society than are those people in the Bureau of Indian Affairs and elsewhere who have been given so much say about Native life in the past.

"If our ship is going to sink then, dammit, let us be captain and sink it ourselves rather than let someone else shoot it out from under us," Katchatag pleaded.

Katchatag's comments came at the end of a week devoted to looking at ANCSA from a national perspective. The week was kicked off with a paper presented by Dr. Joseph Jorgensen, a professor of history and anthropology at the University of California and author of "The Sun Dance Religion."

The paper traced the history of Native Americans, primarily in the Lower 48, from the first European contact to the present. What it revealed was a "pendulum" approach used by the federal government in dealing with aboriginal people: a policy swinging back and forth from efforts to deal with Indian tribes as distinct governments and cultures continuing, to recurring attempts to "terminate" Native Americans as distinct peoples with cultural and governmental identities; to assimilate them into mainstream America.

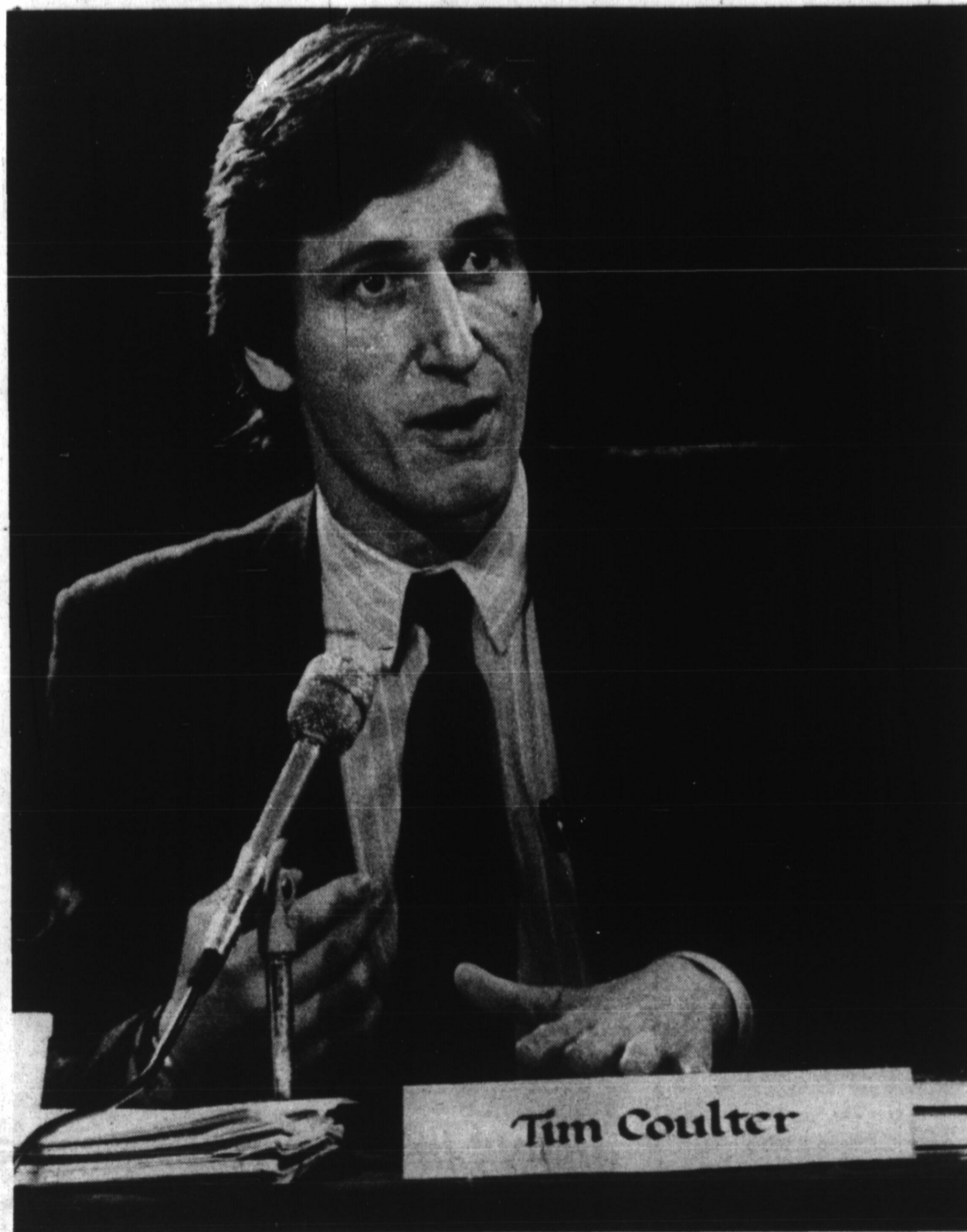
Ada Deer recalled the confusion created among her people, the Menominee Indians of Wisconsin, during the latest period of termination policy.

In 1954, Congress passed the Menominee Termination Act, which went into effect in 1961. Instead of a reservation, the Menominee found themselves living in a county as "certificate holders" in a state corporation. Their lands were fee simple and could be taxed, sold, and owned by anybody.

The tribal rolls were closed; newborn children were not recognized as Indians by the federal government. Services, such as medical care, provided by the government were ended.

"My people suffered a great many hardships and social injustices as a result," Deer said, noting that with the lack of medical care there was much illness and death. Menominee county became not only the newest, but also the poorest county in Wisconsin, she added.

"It was a devastating act," Deer said. "Social devastation, psychological devastation... I remember a traditional man who told me 'one day, I'm an Indian, the next day, I'm not. Yet I am the same person!' He did not understand the legal complexi-



Russell Jim: his people won back a sacred mountain

ties of the termination act."

Few Menominees did, Deer said, adding that the widely held notion that the Menominee people consented to termination was in itself a misconception. The termination act followed a claims settlement where the Menominee people were awarded \$8.5 million as a result of mismanaged trust over their lands and affairs by the federal government.

A bill in the House called for each Menominee to receive individual payments of \$1,500 of that, but the Senate changed the legislation to read that the Menominees would have to agree to termination before they could receive any money.

Deer said that although few of her people had any idea of what was going on, a meeting was held to gain Menominee approval of the idea. Out of about 3,000 tribal members, 169 came and voted for termination, with five opposing it. Shortly afterward, some of the tribal members figured out what was happening, Deer said.

Another meeting was held, and 197 people came, including many of those who had voted for termination before they understood what it meant, and all of them voted against the act. Their senator, however, took the first vote to Congress as evidence that the Menominee people favored his efforts to terminate

them, and the act passed.

"All major policies on Indians have come from the top down," Deer noted. "not on the needs and aspirations of informed people at the grass roots level."

Menominee reaction resulted in a grass roots movement of the people which turned that policy around, Deer said, and finally resulted in legislation "which came from the people, it came from the bottom up."

Deer explained how the Menominees had always felt free on their wooded, lake-dotted lands. Free to come and fish or hunt without asking anybody's permission.

Such freedom ended with the act, and opposition grew. The last straw came when a group of youngsters were forced to leave a favorite lake. Their angry parents staged a demonstration. Lawyers were contacted to see what could be done. Deer became a major force in the movement for restoration which was to follow.

At first, Deer and other supporters of restoration were dismissed as "agitators and crazies." Restoration would be impossible, the people were told. Some Menominees, who were profiting from the selling of traditional land and profiting in other ways from the non-Indian interests manifesting themselves in Menominee county, opposed the movement, Deer said.

Although Deer expresses caution when it comes to lawyers, she noted that her people had been able to employ some very dedicated and concerned lawyers who were willing to put aside their own ideas and work only for what the Indian people told them, the Menominees were able to prevail. Deer noted that the public attention gained through the media by the demonstration also helped.

The Menominee Restoration Act was signed in 1973. Some lands had been lost, but because the county was mostly populated by Indians, most were retained. Once again, they could not be taxed, or sold to non-Menominee. The rolls were opened up, and the tribal status of newborn children was once again recognized.

The tribal government was reconstituted. Although the county government was left in place as an effective means to work with Wisconsin for state services, the tribal government established its own courts and police and took control over the land, but, Deer noted "the land is safe, and the control is back in the hands of the Menominee people."

"Your presentation sounds an awful lot like what we are going through up here," Al Gozmer, president of the IRA tribal government of Tyonek, told Deer (Continued on Page Nine)

(Continued from Page Eight) after her testimony.

The IRA governments, formed under the Indian Reorganization Act of 1934, are being promoted by many tribal government advocates in Alaska as the best form for the villages to use to assume control over their lands, and to exercise the sovereignty they maintain they have had since long before Columbus discovered America.

Russell Jim, the former Chairman of the Yakima Nation in Washington and a noted Indian rights activist, spoke strongly in favor of tribal sovereignty but raised questions as to whether the IRA governments were the best way to express such governing powers.

"The Yakima were opposed to being an IRA tribe and refused," Jim recalled what happened early in the century when the BIA had tried to convince the tribe to accept IRA status. Jim explained that as a nation, the tribe had signed a treaty with the U.S. government.

The tribal leaders felt the full extent of their traditional powers would be better preserved and maintained by keeping the government which had had the power to deal on a one-to-one basis with the U.S. in place.

They also objected to a provision in the IRA which requires tribes to obtain permission of the Secretary of the Interior before they can make changes in their tribal constitutions. Jim noted that many IRA leaders attending a conference in Sun Valley, Idaho, had expressed disenchantment with their role under the act.

Some had wanted to make changes in their constitutions, but the secretary had not approved. "The tribes had a direction they wanted to go," Jim noted, "but if he didn't sign, they didn't go anywhere."

Jim expressed strong feelings about the relationship of his people to the land, and his thoughts about the taxation of Indian lands. He noted that before the Yakimas signed the treaty, they had a homeland of 12.1 million acres. "We ceded 10.8 million acres to the state of Washington and retained 1.3," Jim said, noting that the land making up all of the states came from Native Americans.

"We feel we have paid our taxes for all time!" he stressed.

Jim also had strong feelings about working to win back lands wrongfully taken. Under the Nixon administration, Mount Adams, a volcano sacred to the Yakima, was returned to them along with 21,000 acres. The move provoked anger among many non-Indians. "This year, Mount Adams, next year, Rainier," Jim recalled their protests.

Jim credited the success of the Yakima to support they received nationwide, including from the Native people of Alaska.

Tito Naranjo, the past president of the Santa Clara Pueblo Tribal Council and current pro-

fessor of Psychology and Social Services at Highlands University in New Mexico, also spoke of land his people had won back.

Unlike many tribes, the Pueblos had not fought, made treaties with, or signed agreements with the federal government, Naranjo noted. When Spanish missionaries and subsequent settlers moved into their region, they had accommodated them peacefully. Always they had defined their territory spiritually, as it was bounded by four sacred mesas.

In 1906, the federal government placed sacred Pueblo land, including Blue Lake, under jurisdiction of the U.S. Forest Service. The Pueblos believed that their people had originated from under Blue Lake and would return there after dying.

They could not explain this to the U.S. government, so instead insisted they owned the land. The government yielded only so far as to offer them \$279,000 in compensation. The Pueblo refused. "How can anybody think of taking away the place that we go back to when

we die?" Naranjo explained.

Although they never could fully explain their religious beliefs to the government or to any others outside of their tribe, the Pueblos persisted in their insistence upon not accepting any compensation, or conceding that the U.S. had any ultimate domain over their land.

They won it back under the Nixon administration. Naranjo also noted how the Pueblo had maintained their traditional form of religious government. First the Spanish had brought in a new form of government for the people. They agreed, and selected the appropriate officials. These, however, remained under the power of the religious leaders.

Then the U.S. came and brought the IRA form of government. Again, the people went along with it and elected the necessary government officials. It was the religious leaders, however, who selected the candidates.

"You can argue that a religious government is not demo-

cratic," Naranjo noted. "The point that the Taos Pueblo was making is that we have the right to define how we are going to live. Either you are going to have to kill us off, or accept how we live as a people."

Tim Coulter, executive director of the Indian Law Resource Center in Washington D.C., challenged the very basis of Indian law and policy followed by the U.S. in dealing with Native American people.

Coulter noted that when the U.S. Constitution was adopted, it defined the relationship between the state and federal governments, between the U.S. citizens and their government.

"It did not say anything about the relationship between Indian governments, or Alaska Native governments, and the U.S.," Coulter said. Coulter described the situation as a "legal vacuum."

The treaties signed between the government and Indian tribes demonstrated that they were sovereigns, but without any law to guide them, the Congress had arrogantly adopted the no-

tion it could take any action regarding Indian tribes it wanted, Coulter noted.

The Fifth Amendment prevented the taking of property from any American citizen without due process of law, but the same protection was not applied to Native Americans.

Coulter noted that even many Supreme Court cases which appeared on the surface to be Indian victories were not really so certain. He noted a recent case where the Cheyenne River Sioux of South Dakota successfully fought a claim that their reservation had been reduced in size. While they won, the court added if it were the intent of Congress to reduce the reservation, they certainly had the jurisdiction to do so.

Calling the situation lawless, Coulter argued that Congress does not have any underlying right to Native American-owned lands. "How on earth did the U.S. ever get the idea it had anything to do with Native land up here?" Coulter asked. "Did they get it from the Russians? Heck no! You can't give what you don't have!"

Coulter urged that if village governments felt they had a right to do something, that they take action on it. He noted a recent case where a Paiute woman ran her cattle on traditional lands despite government insistence that she could not. She finally won a concession that she had the right to do so.

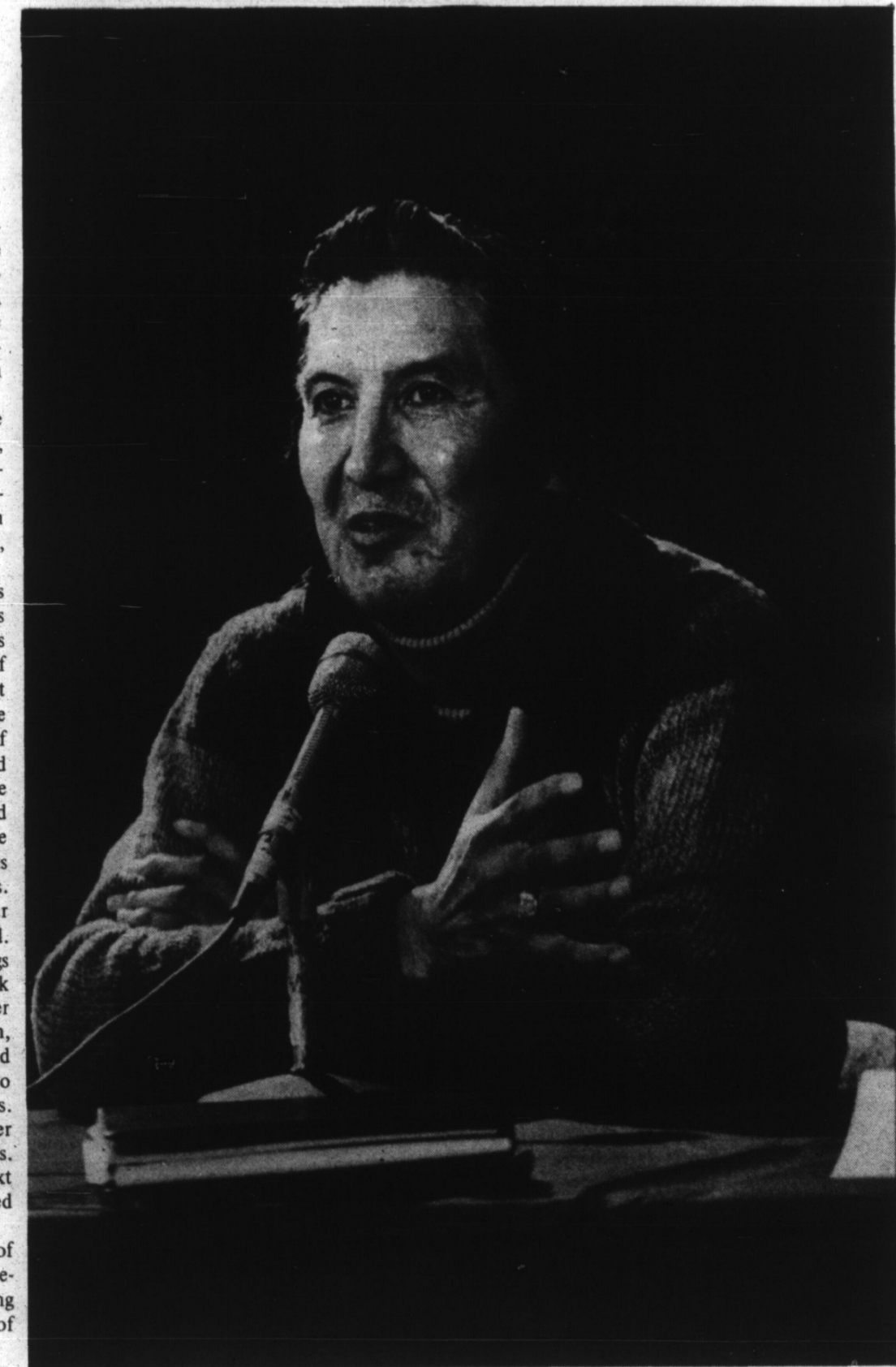
He noted further a group of Mohawk Indians in New York who claimed territory and said they had the right to exercise self-government. They held state law enforcement officials back at the boundary, sometimes with loaded weapons. Recently, their right to govern themselves on the reservation they created has been legally recognized, Coulter said.

No panelist created a greater stir in the meeting than did Ralph Lerner, author of the book "Reds and Whites: Rights and Wrongs." Lerner took virtually every argument which was presented and turned it around, cautioning Alaska Native people that as they sought to make any changes in ANCSA, they would find themselves butting up against attitudes very different than their own.

Lerner was critical of the use of the word sovereignty, arguing that when it came down to the bottom line in this country, there was only one sovereign, one entity that could declare war on foreign nations and take other final actions of a sovereign.

Lerner argued that when Alaska Natives or American Indians carelessly threw the word sovereignty about, they could solidify the opinions of many people against them; people who might take no exception to a term such as self-government.

The meetings will continue this week as panelists gather from Australia, Canada, Greenland, Denmark, and Norway — all nations with aboriginal and colonial populations, to discuss ANCSA from an international viewpoint.



Tim Coulter: if you want to be sovereign, act sovereign.