

ASNA Atty. Pens Critique on Committee Recommendations

(Editor's Note: Frederick Paul, attorney for the Arctic Slope Native Association, wrote the following essay for the benefit of the ASNA members.)

By FREDERICK PAUL

THE GAMBLE

"The preferred approach is

to make no grant of land in compensation but to provide roughly a 10 per cent share of the revenue income from all lands over a ten-year period with a ceiling of \$100 million in any one year." So recommends the Federal Field Committee for Development Planning in Alaska. Ten times \$100 million equals one billion dollars; but does it?

For this, we are to have all of

our lands expropriated to the United States (except for town-sites, homesites, fish camps, etc.)

To wrench ourselves away from our land—our beloved land—is something no one but us will ever understand.

But the theory is that if we are adequately paid, why should we complain? Under that hypothesis, our inquiry is: are we being

(Continued on page 6)

Atty. Pens Critique...

(continued from page 1)

adequately paid under the plan? One billion dollars is a lot of money—if we get it.

The money is to come principally from at first 45 per cent of Pet 4 and then 90 per cent; and ten per cent of Federal leasing and new State selections, for ten years and not to exceed \$100 million in any one year.

We learned, for example, that the Santa Barbara bonus payment in one offering was \$653 million—so our answer is: one year's payment to us of \$100 million would be fulfilled, what then? Can we rely on successive offerings, year in and year out, so that we each year will get our \$100 million.

The Chase Manhattan Bank's energy committee has warned industry, according to the Wall Street Journal: now just wait a minute, let's not jump to too many conclusions. There is "much more development drilling xxx (yet) to be done, xxx before the initial discovery can be estimated with any precision."

Assuming the oil is there, have we any assurance that within ten years (and year by year) we will get our money. I wonder.

Forty billion barrels is the latest total that I have seen. Some gossip says 300 billion barrels, but whatever it is, it will have an international impact. Our foreign policy can be shaped without dependence on the Middle East. The vagaries of international politics have an overriding influence on the rights of 53,000 Eskimos, Indians and Aleuts and thus can radically change production.

Former Secretary Stewart Udall recently testified that the Santa Barbara offering was made because President Johnson wanted help in balancing the budget. Please explain to me, if one can, that when an overriding national problem presents itself, the central government will pause to permit our annual maximum. I don't believe it.

No one—absolutely no one—has made an analysis of what our annual payments would probably be. (I wish we could hire an economist to do so.) The Federal Field Committee is the first one to say it does not know and has made no study of it.

Oil has created an hysteria about the 55 million acres of the the North Slope. This we know and so supposing huge areas are put up for bid the first year. We would get our first year's maximum of \$100 million and the surplusage would go principally

to the State and the balance to the United States and that would be that. The maximum would not be reached again.

The royalties out of production would take some years to develop and so I see no relief there.

There are oil discoveries and production in other parts of the world, too. Senator William Proxmire mentioned this in his debate on Mr. Hickel's nomination. The import quotas of foreign oil can vary. We extend this comment by saying the foreign imports directly affect domestic production.

And then there is the transportation problem. We saw the announcement of a \$1 billion pipeline and the Tanker Manhattan is being refurbished. We are, of course, asked to agree to an expropriation of all of our land. But no one has yet licked the problem of temperature in the pipeline, of the oil freezing when a break occurs and the Northwest Passage has not yet been navigated. These will all be overcome, but within the ten years to make it meaningful to us?

What about the legal criteria of the size of a settlement? First the Federal Field Committee stated:

"The natives of Alaska have a substantial claim to all of Alaska xxx." (emphasis not supplied).

The 1968 Tlingit-Haida case defined our rights:

"Ownership by Indian title, although merely a possessory right of the use and occupancy and, therefore, less than the fee simple ownership, is the complete beneficial ownership based on the right to perpetual use and occupancy."

We are aware that the Teehit-ton case told us that the Congress has plenary control over our land but we also have confidence in the conscience of the United States and our Congress to treat us justly.

But when one has a complete, beneficial ownership is the national conscience fulfilled by ten years of the yield and even that a gamble? Compared to guesstimates of 300 billion barrels of oil, the natives think otherwise.

At the very least the Federal Field Committee proposal must be amended to provide a minimum. The theme of my next report will be an alternative suggested by the Federal Field Committee comprising a recognition of our ownership of some land.