

Alaska Natives on Washington Scene

(EDITOR'S NOTE: Many things are happening today to Alaska's Natives' position on their ages old land rights. The following is a simple and complete description of all the many activities in Congress, Washington and Alaska. We must understand the full picture of what's happening because each past interacts with each other.)

By JIM THOMAS

Congressmen are busy men. Their schedules each day begin early in the morning and run late into the night. They consider small issues of district magnitude to great issues of international importance. Their time does not permit them to think long on one subject. So to keep an issue foremost in the minds of Congressmen, industry and organizations send lobbyists to Washington, D.C.

AFN's men in Washington are its top-most, President Emil Notti and First Vice President John Borbridge, Jr.

ALASKA DELEGATION

The closest men to Alaska's issues are its two Senators Gravel and Stevens and its Congressman Pollock. AFN's men in Washington contact these representatives frequently, asserting and justifying the AFN's position on Native land rights and in turn taking a reading of what Alaska's delegation feels the Congress is planning with the bill at various stages.

COMMITTEES

AFN's bill concerns land and aboriginal claims and compensation, thus the committees of the Congress involved are the subcommittees on Indian Affairs and the full committees on Interior and Insular Affairs. The men who belong to these committees are generally aware of Indian or Native dealings, but not necessarily experts in Native conditions or even native or "Indian" law. Notti and Borbridge visit these men as schedules permit, filling in the information gaps so that these men are fully aware of the Alaska Natives' position on the land rights settlement.

THE CONGRESS

To a Senator from Rhode Island, a state smaller than Alaska's Malespina Glacier, acreage in the millions is hard to envision; to congressmen who come from non-resource poorer states, millions of dollars mean very much. In order to understand Alaska for what it really is and the rights of the Alaska Native, AFN's Washington staff must work very hard demonstrating to these men that Alaska is

unique and that conditions are not the same as these representatives' states.

THE PEOPLE

The men of Congress represent people throughout the United States, Congressmen are responsive and responsible to the people of their various states. So, AFN's Notti and Borbridge go directly to the people by television, radio, mail, and directly through speaking engagements.

Notti and Borbridge keep constant contact with AFN's legal counsel Justice Arthur Goldberg and the Washington office under the direction of former Attorney General Ramsey Clark.

Justice Goldberg and General Clark are well known and respected throughout America. Congress knows they only take cases of great public importance and it is impressed that Justice Goldberg is serving the Native people and their cause for free.

ALASKA

The AFN in Alaska has its headquarters in the Kaloa Building in Anchorage. The Kaloa Building is built and owned by the Tyoneks, a Native group on the Cook Inlet. It shows what

Alaska's Native People Dominated the Land

(EDITOR'S NOTE: This is adopted from the distinguished editorial series in the Anchorage Daily News on Justice for the Natives.)

Hundreds of years ago the Eskimo, Indian and Aleut were in every way the dominant peoples of Alaska.

Enjoying a flourishing culture and a noble history, these Natives used and occupied virtually all of what is now the state of Alaska.

Then over 200 years ago the Russians came. First to the Aleutian Chain and later to Southeastern Alaska.

With them came disease, decimating the Aleut peoples, and the gun.

They and the American whites after them invaded and destroyed age-old hunting and fishing grounds. They introduced ideas alien to our cultures, and they subjected Native families to stresses and strains beyond bearing.

As the Federal Field Committee Report points out, because it was believed "best," efforts were made to deny the Native his culture, extinguish his language, and sever him from his past.

How Legal Services Can Help

(EDITOR'S NOTE: A new and good friend of Native people is the Alaska Legal Services. We asked them to tell our readers what they're doing. Read the following story carefully and remember if you need help, CALL THEM.)

Alaska Legal Services provides lawyers and legal assistance to anyone who can't afford a lawyer, at no charge or cost. These services are provided to persons whose income is under the official O.E.O. poverty levels.

In order to find out whether you qualify, you may contact any one of the thirteen offices in Anchorage, Fairbanks, Juneau, Ketchikan, Fort Yukon, Barrow, Kotzebue, Nome, Galena, Bethel, Dillingham, Kodiak, and Kake.

Alaska Legal Services can help you in many ways. At present it is helping people from the Fort Yukon area sue the State of Alaska to force the State to provide the food stamp program there. Alaska Legal Services also gives a hand to those Alaskans who have been given children and do not have adoption papers to protect the children's rights and benefits. Some people have no record of their birth, Legal Services can help.

Others wish to form cooperatives to catch and sell their fish at higher prices, or to purchase and own their fishing boats, here again, look to Legal Services.

Sometimes people need help in getting enough money or aid for them to buy food and find housing.

If any persons feel they have been cheated or treated unfairly they should telephone, write a letter, or visit one of the Alaska Legal Services nearest them.

200,000 Infos Handed Out—

AFN PR Hums with Activity

The effect of the hum of activity at the AFN public relations office can be summed up with some solid statistics. During the past months over 200,000 pieces of printed material have been distributed to Alaskan and Outside news media, to Native groups, and to the general public.

The AFN Speakers Bureau has sent 12 officers to speak before groups in Washington, D.C., New York, Philadelphia, Detroit, Anchorage, Fairbanks, Nome, Kotzebue, Eklutna, Juneau, Sitka, for a total of over 123 appearances.

Petitions circulated in Anchorage and every Alaskan village have already resulted in almost 5,000 signatures from only a

natives can do when given the chance.

There are 15 Natives on the AFN Staff. They handle jobs from coordinating educational information (Showalter Smith) to job training programs (Miles Brandon).

Lately the Anchorage office and other AFN representatives throughout Alaska have been concentrating their efforts on the AFN land claims proposal.

quarter of the villages contacted. These have already been forwarded to Washington, D.C.

Many other petitions are expected to arrive soon from the more remote areas in the state.

Important endorsements of the AFN position on land claims by the National Council of Churches and organized labor in Alaska have been aided by the efforts of the Public Relations office.

Television appearances, news stories, statements to the press have flooded the state with mark-

Your AFN Public Relations Office, headed by Jim Thomas, is there to help inform the public about land claims. . . and it is there to help you. If you wish information or additional information just write, AFN Public Relations, 1675 C Street, Anchorage, 99501.

Anchorage Daily News Points Out Land Uses

(From The Anchorage Daily News)

Natives have used and occupied much of the lands of Alaska since time immemorial. This creates what's known as aboriginal title.

Aboriginal title exists even if the land claimed is not the site of a permanent camp, is only used on a seasonal basis for subsistence, is used for traveling to subsistence, is claimed jointly with another Native group, or by a village, or supports a small Native population. Moreover even if there is no productive purpose to the land if it lies within a larger area controlled by Natives, then it too, is held under aboriginal title.

And with aboriginal title goes all surface, mineral and water rights.

HISTORICALLY, IT HAS been the policy of Congress and the courts to respect and protect the Indians' use and occupancy of the land over which exercises dominion. On the other hand it has also been recognized that Congress has the right to extinguish aboriginal title.

Unless Congress acknowledges the aboriginal title by statute and provides some mechanism for compensation, extinguishment does not give rise to any compensable rights. This was the holding of the Tee-Hit-Ton case where in 1955 the Supreme Court said that Congress had not yet recognized aboriginal title as a Fifth Amendment property right protected against government taking or extinguishment.

But the Court in Tee-Hit-Ton did describe the right of aboriginal occupancy as "a right of occupancy which the sovereign grants and protects against intrusion by third parties."

By so doing the Supreme Court once again acknowledged another long line of Indian law precedent. Against third parties aboriginal title is still good unless extinguished by the United States even when applied to the grant of public lands to a state. And this right had been held judicially enforceable.

IN ANY CASE, if Congress extinguished title, it's necessary to arrive at some measure of compensation. In the Tlingit and Haida case of last year, the ninth circuit said that the measure was to be the time of taking; the standard to be fair market value; and the value to be the same as if the land was held in fee simple and not the value to its primitive occupants relying upon it for subsistence.

The Natives claim much of the state under aboriginal title. The prestigious Federal Field Committee for Development Planning in Alaska, in its authoritative study, Alaska Natives and the Land, has said that "the aboriginal Alaska Native completely used the biological resources of the land, interior and contiguous water in general balance with their sustained human carrying capacity. . ."

And in the key sentence in its study of Native land rights, the Federal Field Committee concluded that "Alaska Natives have a substantial claim upon all the lands of Alaska by virtue of their aboriginal occupancy. . ." (Emphasis in original.)

THE NATIVES, however, are not seeking at this time to assert their rights to aboriginal title against the United States. Since, apparently no legislation has acknowledged Native rights to compensation (legislation has noted aboriginal title), Tee-Hit-Ton, unless overruled, would seem to bar a direct suit.

Instead the Natives are seeking a traditional legislative settlement which would in effect transfer their aboriginal title into fee simple for some lands, and compensate them for renouncing justifiable claims to other lands. Such an approach is consistent with the Congressional policy of extinguishment through negotiation.

The Natives argue that a legislative settlement is in everyone's interest, since their aboriginal rights are still good against the state and can block its efforts to select public lands. (Remember, unextinguished aboriginal rights are protected against third parties.)

This finally, gets around to the second aspect of the claims—the land freeze. There are procedural issues in the land freeze case, any one of which could support a decision. But the heart of the matter is land rights.

That case asks: Did Congress in the Statehood Act give the State the power to extinguish aboriginal title subject to subsequent legislation? Or is the State a third party against which the Native land rights are good in every respect?

ALL THIS GOES back to two provisions in the Statehood Act. In one the state disclaims all right and title to land which may be held by the Natives. In another the state is allowed to select lands for itself.

The question is whether Congress knew the state would select lands claimed by the Natives and thereby meant for the state to extinguish title, or whether Congress meant that any state selection of Native land would not extinguish title until Congress got around to doing so.

The government and the Natives say Congress did not extinguish title; the state says it did. And the land freeze rests on the

This then is the legal background of legislation and litigation against which the Native claims are proceeding. There is merit in the Natives' claim of aboriginal title to much of the state. And it is likely, though it is a close question, that the Ninth Circuit Court of Appeals will maintain the land freeze.