

# Sobering Analysis ...

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aboriginal title does not depend for its existence upon recognition by the Congress or any other body or officer. The law and policy of this Nation since its founding have always been that aboriginal title springs from aboriginal use and occupancy; that it affords the Native groups that hold it complete beneficial ownership of the lands subject to it; and that it can be extinguished by Congress only by an act clearly calculated to do so and upon the payment of full compensation. Rights to protection against third parties are very clear.

Contrary to the assertion of the bill, the Natives do seek title to or compensation for substantially all the land in Alaska because, as the Federal Field Committee found, this is what they presently own under aboriginal titles which have never been extinguished.

Contrary to the inferences of the statements in the bill, aboriginal title, as a matter of law, is not lost to a Native group simply because its use and occupation of the subject lands is interfered with without its consent.

And, contrary to the assumption of the bill, individuals do not lose their rights in lands aboriginally owned by the group to which they belong simply because they move to a predominantly white man's town.

Based as it is upon predicates that are in derogation of aboriginal title, it is understandable that several of the substantive provisions of the bill are also totally unsatisfactory.

First, it provides that the only lands that Native groups might receive in fee are those physically occupied by their villages and adjacent lands in quantity not to exceed three times the acreage of the lands physically occupied by their villages.

On the face of Alaska the total lands that the Natives could get under this provision wouldn't even show as specks. Secretary of Interior Rogers Morton, in embracing this formula before the Senate Interior and Insular Affairs Committee in hearings on February 17, generously estimated that it would provide approximately 5 million acres. Native spokesmen who know their villages estimate that the actual figure would be closer to 80,000 acres. Secretary Morton must be informed of the substantive aspects of our land rights. Apparently this hasn't been done in an effective manner.

The bill provides that not less than 40 million acres shall be included in subsistence use permits to be granted to villages. The rights that these permits would bestow are illusory. The Natives' use of the included areas, except in cases of emergency, would be non-exclusive and the lands would otherwise be subject to disposition under the public land laws including the Statehood Act. Once again Native land rights would be subject to "a higher use or purpose."

The makeup of the agency that would administer and distribute the monetary compensation that the Natives would receive under the bill is likewise wholly unsatisfactory. Its members would be the Governor, the Speaker and President of the Alaska House and Senate, respectively, and four Natives appointed by the Governor with the consent of the State Senate. Where is the recognition of the competency of the Natives whose ability and dedication are primarily responsible for focusing the attention of the Congress and the American Public on the Alaska Native Land Rights issue? We do not need a quasi-governmental body to do for us what we can better do for ourselves. Well-intentioned paternalism is a poor substitute for significant self-determination.

The only use that could be made of money resulting from the settlement would be to pay it out to individuals. The Central Council of the Tlingit and Haida Indians of Alaska decided, with reference to its judgement fund award, that the needs of its people far outstripped its financial resources. By institutionalizing its strength and by training Tlingit and Haidas, that organization is using its resources as leverage to obtain Federal, State and private funding. The results—more financial resources and services previously not available on such a scale to our people will soon be forthcoming. We refused to give up our right to enter significantly into the political and economic life of our State. We regard the judgment award as capital assets that were paid to us for the loss of other capital assets—our land. We also have an obligation to future generations.

Additionally the bill contains provisions calling for the termination of Federal services to the Natives of Alaska. We object to this provision. This is a land claims settlement bill. Termination is a separate subject that can be dealt with in a separate bill. It should not be imposed upon us.

No provision is made for Native villages located in or adjacent to land to which the State has received Tentative Approval. A village could be deprived of all or part of land it would otherwise receive by the exception of Tentative Approved lands from Native selections.

There is little or no likelihood that the Federal contribution from mineral leasing revenues (250 million in the first ten years subsequent to enactment) will be realized. A review of the U.S. share (10 per cent) for the decade 1961-1970 clearly indicates that this provision needs a substantive amendment. The deficit to the Natives, under this formula, could be \$240 million! We are approaching the Congress in good faith—we are entitled to real compensation for the very substantive rights that we are agreeing to give up.

While H.R. 3100 as introduced can only be a disappointment to the Natives, I don't believe that it represents the final thinking of either Chairman Aspinall or Congressman Haley. I believe it is essentially a staff product which they decided to introduce because they felt that it might serve as a framework for the deliberations of their committees. There are no indications that its provisions are cast in bronze or that the sponsors and other members of the subcommittee and full committee will not be receptive to suggestions for amendment. A vigorous, well-organized and unified effort by the Natives of Alaska is absolutely necessary in the months ahead.

Chairman Aspinall and Congressman Haley have previously displayed understanding and fairness when dealing with the causes of Native peoples. I can think of no reason why they would act differently with respect to the Natives of Alaska.

# State Public Assistance Rapped ...

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in rural areas is that a couple where both husband and wife are eligible for APA only qualifies for one full benefit. The husband is considered a "recipient" and his wife is classified as an "eligible spouse" allowed to collect only \$100 per month.

Before when benefits were considered separately, a couple could receive up to \$400 per month combined income.

This, explains John Sackett, allowed some of the old people to buy oil stoves to heat their houses so they would not need wood. They were not a drain on their children. Now, he says, they can barely buy fuel.

Housekeeping expenditures, explained Mrs. Nyquist, have been increased—but rural recipients do not know how to utilize this.

In the past, housekeeping expenses were figured in the family's monthly "budget" and the old or disabled person received the money in cash. Now, he must file a form (in triplicate) for reimbursement—which will not arrive for more than a month. This form, which provides unlimited housekeeping funds, may work in the cities, but it does not work in the villages.

"In the village," explained Mrs. Nyquist, "an old person or disabled person will look out the doorway till he sees a young boy or other younger person walking past."

"He'll call, 'Hey you!' and ask the boy to get him some wood, or light a fire or whatever the chore. Afterwards, he'd give the boy his 50 cents or whatever and make out O.K."

"Try explaining to a young boy in the village he has to submit a form in triplicate and then wait over a month for his money. He won't understand."

Thus, while procedures become more elaborate, rural recipients become more confused and unaware of what they are entitled to and how to get it," complained Mrs. Nyquist.

"The village Natives are exceptionally honest people," explained Mrs. Nyquist.

Many times, she said, people will ask whether it is fair for them to receive food stamps. After all, they already receive welfare assistance. Her clients, she said, would never think of "selling" their cabin to a relative so they could get added income by paying "rent."

"In New York or Los Angeles, we'd have hundreds of cases of this," she said. "Never in the Alaskan bush."

Honesty, pride, also leads many older people raising a child who qualifies for AFDC (aid for dependent children) benefits not to request the full amount of money.

In the villages, Native customary adoptions are common. Many grandparents will be raising a grandchild, often illegitimate. The state allows \$50 per month AFDC for an eligible youngster under 5, increasing to \$100 as the child reaches 18.

An eligible relative who cares for the child, such as his mother whose husband is not present or not working, can receive a total of \$125 per month. Any relative without support is eligible—grandmother, aunt, sister, etc.

Many grandparents, however, request support only for the child, not for themselves. They cannot see themselves accepting welfare—or taking financial advantage of the child's presence in their home.

Federal law requires that if a mother leaves her child with other relatives, they must file "abandonment and desertion forms" with the district attorney

before they can collect AFDC funds. Thus, another technicality.

What can be done? What is being done?

"Essentially, the program is good," explained Mrs. Nyquist. "It falls down for a few cases—as in Galena." She referred to a recent "Newsweek" article which ranked the AFDC benefits of the 50 states. Alaska headed the list with one of the fullest welfare programs.

"The government sets up standards without educating the people to deal with them," explained Mrs. Nyquist. After all, how many legislators have been out to the bush—places where it may cost as much as \$100 per month to heat houses without insulation?

That payments have increased, is without a doubt. Welfare consultant Tim Cook estimates some AFDC households may have doubled their benefits, or increased them substantially. APA households also increased substantially—with exceptions in each district.

The districts of Galena, Tok and Fort Yukon were the worst hit.

Legislation is the only answer to this problem.

In other ways, the welfare department is increasing its services.

What is needed most in the rural areas, in the field of welfare, are Native social workers available to the people in the rural areas.

Also, they need welfare offices in the villages, not located

in Fairbanks but available where clients can walk in with questions and requests.

Already, though Mrs. Nyquist still administers the Galena office from Fairbanks, the welfare department has hired a new eligibility worker in Galena—the transportation center in the district.

Offices for Barrow, Tok and Fort Yukon have recently moved from Fairbanks to these villages. Kotzebue and Nome already have their own welfare offices.

Right now, there is no direct path for an eligibility worker to move upwards—to a social worker I and II.

University of Alaska social work majors with their BA degrees qualify to fill Social Work I positions. The state requires Social Worker II—with qualifications including graduate work not available in Alaska.

The first tentative program to fill the gap in Native social workers is a program for "Human Service Aides" in Bethel, explained Cook.

These Human Service Aides were chosen from a list of candidates submitted from each village in the Bethel area. They received extensive training—up to one year in several segments—and provide services to their own villages and perhaps one or more neighboring villages.

This year, Bethel has six aides. If their budget remains, they will have six more this coming year, qualified to aid clients with food stamp, AFDC and APA eligibility.

# Commissioner Bruce ...

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located on reservations. In Alaska, our funds are not being channelled into urban problems," Bruce said.

The Commissioner was asked whether there was an over-balance of Indian leadership from urban areas on his new team which might work to the detriment of programs designed for reservation Indians and Alaska Natives.

"I think we are fairly balanced," he replied. He noted that Flore Lekanof, Deputy Director of Community Services, was an example of representation from non-urban areas.

Bruce added that, although Community Services Director Ernest Stevens and Deputy Director of Economic Development Leon Cook have achieved reputations for their work with urban Indians, they have not lost touch with the needs of reservation Indians.

The Commissioner stated that his announcements of policy changes and personnel selection had received mixed reactions from the Indian community.

"I would say that it was about fifty per cent accepted, but a very small number have said they were not in sympathy with the whole policy," he said.

Much of the initial reaction came from tribes who strongly urged that their current field administrators be allowed to remain.

"Based on tribal resolutions and BIA evaluations, about one-third the total number of field administrators have been notified that they will remain," Bruce said.

The first of the new area directors selected under the new policy was Morris Thompson, former Special Assistant to former Interior Secretary Hickel. Thompson became area director for Alaska last month.

The Commissioner described Thompson as a "top-notch man," who has "come up through the

Some of the new policies, he indicated, are being implemented at a slower rate than personnel reassignment or contracting.

According to the Commissioner's November 24 statement, the field administrators would be delegated with increased authority in daily agency operations. This was described as inclusive of personnel selection and involvement in budget preparation.

"We are reviewing this policy very carefully, but no action has been taken," said Bruce.

Another new policy was introduced in the form of increased consultation with tribes and Alaska Natives during bureau evaluation of agencies. One of the first agencies to be evaluated through this new system was to be the Nome agency.

A December statement issued by the BIA scheduled completion of the evaluation for the end of January 1971. Commissioner Bruce said the evaluations were not yet completed.

Although the Commissioner would not comment, there is some speculation that the new policies have not been swiftly implemented because of mixed feeling from the Indian community and because of hesitance from new Interior Secretary Rogers Morton to endorse the new policies.

When contacted, the Secretary's Office stated that Morton had made no decision and was still reviewing the new policies.

It may be significant that the only public statement Secretary Morton has made with regard to Indian policy appeared during confirmation hearings on January 25.

At that time Secretary Morton said the Interior Department will carry out the intent of Congress and the will of the President in administration of programs for American Indians.