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ALASKA NATIVE LAND CLAIMS

HEARING

BEFORE THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETY-FIRST CONGRESS

FIRST SESSION

ON

S. 1830

A BILL TO PROVIDE FOR THE SETTLEMENT OF CERTAIN LAND CLAIMS OF ALASKA NATIVES, AND FOR OTHER PURPOSES

APRIL 29, 1969

Printed for the use of the
Committee on Interior and Insular Affairs

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1969

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ALASKA NATIVE LAND CLAIMS

TUESDAY, APRIL 29, 1969

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The committee met, at 10:10 a.m., in room 3110, New Senate Office Building, Senator Henry M. Jackson (chairman) presiding.

Present: Senators Jackson, Moss, Gravel, Allott, Jordan of Idaho, Stevens, and Bellmon.

Also present: Jerry T. Verkler, staff director; Stewart French, chief counsel; Wlliam J. Van Ness, special counsel; Daniel A. Dreyfus, professional staff member; and Charles Cook, minority counsel.

The CHAIRMAN. The committee will come to order.

This is a public hearing before the full committee of the Senate Interior and Insular Affairs Committee. The purpose of this morning's hearing is to take testimony on proposed legislation now before the committee on the settlement of the Alaska native land claims.

The committee held hearings on this subject last year on bills introduced during the 90th Congress. Field hearings were held in Anchorage, Alaska, on February 8, 9, and 10, 1968, and hearings were held in Washington, D.C., on July 12, 1968. The record of both hearings was printed and they are available.

Following the Alaska hearings last year, I requested the Federal Field Committee for Development Planning in Alaska to undertake an analysis of factors affecting congressional resolution of the land claims problem because I felt that no one—including the Federal Government, the State of Alaska, and Alaska natives—had the basic information necessary to work out a wise and just settlement of this complex social, legal, and political issue.

The field committee was chosen to perform the analysis because it had not only gained a considerable reputation for the thoroughness of its research and freedom from agency viewpoints, but it also declared the highest priority task of the Federal Government in Alaska to be a search for means of improving the circumstances of Alaska natives, and it had stimulated innovative programs affecting their employment, training, and housing.

The field committee's report, "Alaska Natives and the Land," is, in my opinion, the most comprehensive portrayal of the native people, the land, and the resources of Alaska ever assembled. The land issue is its focus; providing the Congress a framework for decision is its purpose. At my direction, copies of this report have been made available to members of the committee, to the administration, and to all interested parties.

The field committee's analysis stresses that consideration of land claims legislation should be seen by Congress not only as a means of

settling the legal claims, but also an opportunity to provide a foundation for social and economic advancement among Alaska Eskimos, Indians, and Aleuts. This same emphasis is characteristic of a second report prepared for the Committee at my request, "Alaska Native Land Claims: Major Elements of a Proposed Settlement."

Following the release of both of these reports in February of this year, I requested the Department of the Interior to draft legislation which reflected the field committee's recommendations for a proposed legislative settlement. The bill before the committee today, S. 1830, is the product of that drafting service.

While I am in general agreement with many of the recommendations contained in the field committee's analysis and reports, my introduction of S. 1830 does not constitute an endorsement of its particular provisions. The bill, together with the background reports and these hearings today and if necessary, tomorrow will, I believe, provide insight and understanding which will enable the committee to shape a just and acceptable legislative settlement.

Based upon previous testimony on bills introduced in the last Congress there appears to be broad agreement among the parties that a legislative settlement should include provisions for land grants; money compensation for lands already taken and aboriginal title extinguished by the legislation, and the establishment of appropriate adjudicatory and administrative bodies for implementing the act.

Translating this broad general agreement into specific legislative language will be a difficult task. It will require the resolution of many key issues.

We look forward to hearing the views of the administration and other witnesses on these issues.

In closing, I want to say that I think the decision of the natives of Alaska to seek a legislative settlement is a wise one. It can prevent delay in the courts and it permits the devising of a creative legislative solution not open to the judiciary.

What we must do is seize that opportunity and resolve the land claims issue in a way that protects the present way of life of most villagers, at the same time assuring ourselves that we are opening the door to the future for them.

I will direct that at this point in the record a copy of the bill and the departmental reports be printed.

(The data referred to follows:)

91st CONGRESS
1st Session

S. 1830

IN THE SENATE OF THE UNITED STATES

April 15, 1969

Mr. Jackson (for himself, Mr. Gravel, and Mr. Stevens) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the settlement of certain land claims of Alaska natives, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Alaska Native Claims
4 Settlement Act of 1969."

5 DECLARATION OF POLICY

6 Section 1. (a) Congress finds and declares that there
7 is an immediate need for a fair and just settlement of all
8 claims by natives and native groups of Alaska and intends
9 by this Act to provide—
10 (1) a grant to native individuals of the lands

1 occupied and used by them for homes, businesses, fish-
2 ing, hunting, and trapping camps, and for reindeer
3 husbandry;
4 (2) a grant of land to the communities in which
5 they live for community use and expansion;
6 (3) where it is within the power of the Federal
7 Government, measures for the conservation of subsist-
8 ence biotic resources and, where necessary, a priority
9 for local subsistence in the utilization of these resources;
10 (4) a grant to a new corporation, owned by Alaska
11 natives, of $100,000,000 for lands taken in the past by
12 withdrawal for Federal purposes or by patent to the
13 State or to other third parties; and
14 (5) a further grant to the new corporation of
15 approximately 10 per centum of the present value of
16 the commercial resources on the remaining public do-
17 main in Alaska, in compensation for the extinguish-
18 ment by this Act of all remaining aboriginal rights in
19 these lands, this compensation to be derived from the
20 income from leasing and sale of minerals and other
21 resources from Federal lands in Alaska over a period
22 of ten years, including lands selected by the State pur-
23 suant to the Alaska Statehood Act (Public Law 85-508
24 of July 7, 1958; 72 Stat. 339) but not patented to

1 the State of Alaska prior to the effective date of this
2 Act.
3 (b) It is the intent of Congress to accomplish these
4 aims rapidly, with certainty, and in conformity to the real
5 economic and social needs of Alaska natives (1) without
6 establishing any permanent racially defined institutions,
7 rights, privileges, or obligations; (2) without creating a
8 reservation system or lengthy wardship or trusteeship; and
9 (3) without adding to the categories of property and in-
10 stitutions enjoying special tax privileges or to the legislation
11 establishing special relationships between the United States
12 Government and the State of Alaska.
13 (c) No provision of this Act is intended to replace
14 or diminish any right, privilege, or obligation of Alaska
15 natives as citizens of the United States or of Alaska, nor to
16 relieve, replace, or diminish any obligation of the United
17 States or of the State of Alaska to protect and promote the
18 rights or welfare of Alaska natives as citizens of the United
19 States or of Alaska.
20 DEFINITIONS
21 SEC. 2. For the purposes of this Act, the term—
22 (a) "Secretary" means the Secretary of the
23 Interior;
24 (b) "native" means any Alaska Indian, Eskimo,

1 or Aleut of at least one-fourth degree Alaska Indian,
2 Eskimo, or Aleut blood, or a combination thereof, and
3 any individual recognized by a native group as an
4 Alaska Indian, Eskimo, or Aleut, but does not include
5 any Tsimshian Indian of Metlakatla;
6 (c) "native group" means any tribe, band, clan,
7 village, community, or association in Alaska which is
8 composed of twenty-five or more natives and which is
9 approved by the Secretary;
10 (d) "Commission" means the Alaska Native Com-
11 mission established by this Act;
12 (e) "public lands" means all Federal lands and
13 interests therein situated in Alaska, except any lands
14 used in connection with the administration of any Fed-
15 eral installation;
16 (f) "Corporation" means the Alaska Native De-
17 velopment Corporation authorized to be established pur-
18 suant to this Act and under the laws of the State of
19 Alaska;
20 (g) "person" means any individual, firm, corpora-
21 tion, association, or partnership, and includes the State of
22 Alaska; and
23 (h) "fund" means the Alaska Native Compensa-
24 tion Fund established under the terms of this Act.

1 DECLARATION OF SETTLEMENT

2 SEC. 3. (a) The provisions of this Act shall be regarded
3 as full and final settlement and extinguishment of any and all
4 claims against the United States based upon aboriginal right,
5 title, use, or occupancy of lands in Alaska by any native or
6 native group or claims arising under the Act of May 17, 1884
7 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321),
8 including claims pending before the Indian Claims Commis-
9 sion on the effective date of this Act.

10 (b) There are authorized to be appropriated to the Com-
11 mission such sums as may be necessary to pay all reasonable
12 attorneys' fees and expenses actually incurred by any native
13 or native group, as determined by the Commission, in connec-
14 tion with any claims pending before the Indian Claims Com-
15 mission on the date of enactment of this Act which are dis-
16 missed pursuant to this Act.

17 ALASKA NATIVE COMMISSION

18 SEC. 4. (a) The Alaska Native Commission is hereby
19 established. The Commission shall be in existence for a period
20 of ten years after the effective date of this Act and shall be
21 composed of five members to be appointed by the President.
22 The Chairman shall be appointed by and with the consent
23 of the Senate. The Federal laws and regulations on conflicts

1 of interest applicable to other Federal employees shall not be
2 applicable to the members of the Commission.
3 (b) The terms of office of members of the Commission
4 shall be five years, except that a vacancy caused by the
5 death, resignation, or removal of a member prior to the
6 expiration of the term for which he was appointed shall be
7 filled only for the remainder of such unexpired term. A
8 member of the Commission may be removed by the Presi-
9 dent only for inefficiency, neglect of duty, or malfeasance in
10 office.
11 (c) The Chairman of the Commission shall receive com-
12 pensation at a rate equal to that provided for in level V of
13 the Executive Schedule and section 5316 of title 5, United
14 States Code. The other four Commissioners, if not otherwise
15 officers or employees of the United States, shall be entitled to
16 receive compensation at a rate specified at the time of actual
17 service for grade GS–18 in section 5332 of title 5, United
18 States Code, including traveltime, and shall be allowed travel
19 expenses when engaged in the performance of services for
20 the Commission.
21 (d) The principal office of the Commission shall be in
22 Alaska. Whenever the Commission deems that the conven-
23 ience of the public or the parties may be promoted, or delay
24 or expense may be minimized, or at the request of any party,
25 it shall hold hearings or conduct other proceedings at any

1 other place mutually agreed to by the Chairman of the Com-
2 mission and the person involved in the hearing or proceeding.
3 The Commission shall have an official seal which shall be
4 judicially noticed and which shall be preserved in the custody
5 of the secretary of the Commission.

6 (e) The Commission shall, without regard to the civil
7 service laws, appoint and prescribe the duties of a secretary
8 of the Commission and such legal counsel as it deems neces-
9 sary. Subject to the civil service laws, the Commission shall
10 appoint such other employees as it deems necessary in exer-
11 cising its powers and duties. The compensation of all em-
12 ployees appointed by the Commission shall be fixed in
13 accordance with chapter 53 of title 5, United States Code.

14 (f) For the purpose of carrying out its functions under
15 this Act, three members of the Commission shall constitute
16 a quorum and official action can be taken only on the affirma-
17 tive vote of at least three members, but a special panel com-
18 posed of one or more members upon order of the Commission
19 shall conduct any hearing or other proceeding provided for
20 in this Act and submit the transcript of such hearing or pro-
21 ceeding to the entire Commission for its action thereon. Such
22 transcript shall be made available to the parties before any
23 final action of the Commission. An opportunity to appear
24 before the Commission shall be afforded any party prior to
25 any final action affecting such party and the Commission

1 may afford the party an opportunity to submit additional
2 evidence as may be required for a full and true disclosure of
3 the facts. Each official action of the Commission shall be
4 entered of record and its hearings and records thereof shall
5 be open to the public. The Commission is authorized to make
6 such rules and regulations as it deems necessary for the or-
7 derly transaction of its proceedings, which shall provide for
8 adequate notice of hearings or other proceedings to all parties.
9 Any member of the Commission may sign and issue subpenas
10 for the attendance and testimony of witnesses and production
11 of relevant papers, books, and documents and administer
12 oaths. Witnesses summoned before the Commission shall be
13 paid the same fees and mileage that are paid witnesses in the
14 courts of the United States. The Commission may order testi-
15 mony to be taken by deposition in any proceeding before it
16 and in any stage of such proceeding after reasonable notice
17 is first given in writing by the party or his attorney of record
18 which record shall state the name of the witness and the time
19 and place of the taking of his deposition.
20 (g) Each decision made by the Commission shall show
21 the date on which it was made and shall bear the signatures
22 of the members of the Commission who concur therein and,
23 upon issuance of a decision under this Act, the Commission
24 shall cause a true copy thereof to be sent by certified mail
25 to all parties and their attorneys of record. The Commission

1 shall cause each decision to be entered on its official record
2 together with any written opinion prepared by any mem-
3 bers in support of, or dissenting from, any such decision.
4 (h) Any decision issued by the Commission under this
5 section shall be subject to judicial review by the United
6 States district court in Alaska for the division in which the
7 petitioner resides or the land in question is located upon the
8 filing in such court within thirty days from the date of such
9 decision of a petition by the person aggrieved by the deci-
10 sion praying that the action of the Commission be modified or
11 set aside in whole or in part. A copy of the petition shall
12 forthwith be sent by registered or certified mail to any other
13 party to the proceeding and to the Commission, and there-
14 upon the Commission shall certify and file in such court the
15 record upon which such decision complained of was issued.
16 The court shall hear such appeal on the record made before
17 the Commission. The findings of the Commission, if sup-
18 ported by substantial evidence on the record considered as
19 a whole, shall be conclusive. The court may affirm, vacate,
20 or modify any decision or may remand the proceeding to
21 the Commission for such further action as it directs. The
22 judgment of the court shall be subject to review by the
23 United States court of appeals for the circuit in which the
24 petitioner is located and by the Supreme Court of the United

1 States upon certiorari or certification as provided in section
2 1254, title 28, United States Code.

3 ENROLLMENT

4 SEC. 5. The Secretary, in accordance with such regula-
5 tions as the Commission may issue, shall prepare an initial
6 roll of natives, which shall be used for identifying those
7 individuals entitled to be shareholders in the corporation,
8 and a roster of native groups eligible for benefits under this
9 Act. Such roll shall include any Alaska Indian, Eskimo, or
10 Aleut of at least one-fourth degree Alaska Indian, Eskimo,
11 or Aleut blood, or a combination thereof, or any person
12 recognized by a native group as an Alaska Indian, Eskimo,
13 or Aleut, but does not include any Tsimshian Indian of
14 Metlakatla, who is born on, or prior to, and living on De-
15 cember 31, 1968. The final roll and roster shall be prepared
16 as of December 31, 1978, and shall include all eligible
17 natives living on that date. Before any such roll or roster
18 is finally approved by the Commission, it shall be published
19 in such manner as the Commission shall find practicable
20 and effective. Any applicant denied enrollment shall be
21 notified in writing thereof and such applicant and any other
22 interested person shall be given an opportunity for a hearing
23 by the Commission and judicial review as provided in
24 section 4 of this Act.

1 ALASKA NATIVE COMPENSATION FUND

2 SEC. 6. There is hereby established in the Treasury of
3 the United States an Alaska Native Compensation Fund
4 (hereinafter referred to as the "fund") for the benefit of
5 the natives and native groups of Alaska. Any moneys author-
6 ized to be appropriated to the fund under this Act and mon-
7 eys received by the Secretary, other than appropriations
8 under section 18 of this Act, or the Commission under this
9 Act shall be deposited into the fund and shall be available
10 until expended. The Secretary of the Treasury is authorized
11 to make payment, with the approval of the Commission, to
12 any native, native group, or the corporation in accordance
13 with the provisions of this Act.

14 ALASKA NATIVE DEVELOPMENT CORPORATION

15 SEC. 7. (a) There is authorized to be established the
16 Alaska Native Development Corporation as an Alaskan
17 corporation which will not be an agency or establishment
18 of the United States Government. The corporation, for a
19 period of ten years after its incorporation, shall be sub-
20 ject to the provisions of this Act and, to the extent consistent
21 with this Act, to the laws of the State of Alaska applicable
22 to corporations.

23 (b) The Commission shall appoint incorporators, one
24 of which shall be the Chairman of the Commission, who

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1 shall serve as the initial board of directors until the native
2 members of the board are elected. Such incorporators shall
3 take whatever actions are necessary to establish the corpo-
4 ration, including the filing of articles of incorporation, as
5 approved by the Commission. There is authorized to be
6 paid from the fund the sum of $1,000,000 which shall serve
7 as consideration for shares authorized to be issued under this
8 section.
9 (c) The corporation shall have a board of directors con-
10 sisting of nine individuals who are citizens of the United
11 States, of whom one shall be elected annually by the board
12 to serve as chairman. Four members shall be appointed by
13 the President, by and with the advice and consent of the
14 Senate, effective the date on which the other members are
15 elected, and for terms of four years or until their successors
16 have been appointed and qualified, except that the first three
17 members so appointed shall continue in office for terms of
18 one, two, and three years, respectively, and any member so
19 appointed to fill a vacancy shall be appointed only for the
20 unexpired term of the director whom he succeeds. Four
21 members shall be natives and elected by enrolled natives for
22 four years, except that the first two members so elected shall
23 continue in office for three years, and any member so elected
24 to fill a vacancy shall be appointed only for the unexpired
25 term of the director whom he succeeds. At the end of the

1 term of the two members elected for three years, the board
2 shall be increased to eleven members and two additional
3 natives shall be elected for two-year terms. The Chairman
4 of the Commission shall be an ex officio member of the board.
5 (d) The corporation shall have a president, and such
6 other officers as may be named and appointed by the board,
7 at rates of compensation fixed by the board and serving at
8 the pleasure of the board. No officer of the corporation shall
9 receive any salary from any source other than the corpora-
10 tion during the period of his employment by the corporation.
11 The president shall be responsible for carrying out the cor-
12 poration's functions in a businesslike manner consistent with
13 the provisions of this Act, the articles of incorporation, and
14 the policies of the board, and shall appoint such other em-
15 ployees as the board deems appropriate. Such employees
16 shall be subject to standards and requirements similar to those
17 applicable to Federal civilian employees, but shall not be
18 regarded as Federal employees for any purpose.
19 (e) The corporation is authorized to have one million
20 shares of common stock, without par value, and to issue and
21 have outstanding shares of common stock equal to ten times
22 the number of natives enrolled on the date of incorporation.
23 Such stock shall carry voting rights and be eligible for divi-
24 dends, except that such stock shall not be distributed to the
25 natives for a period of ten years after incorporation but shall

1 be held in trust by the board for each eligible native with
2 the right of such native to receive dividends during this
3 period and to exercise voting rights. Each native entitled to
4 such stock shall have a life interest therein, and at his death,
5 such stock shall vest in the corporation and may be reissued.
6 Ten years after the date of incorporation, ten shares of com-
7 mon stock shall be issued and distributed to each eligible
8 native then alive and enrolled.
9 (f) The corporation shall, in accordance with such terms
10 and conditions as the board may prescribe and consistent with
11 this Act and for the benefit of the stockholders thereof, invest
12 its funds; make dividend payments to the common stock-
13 holders at such times as the board of directors deems appro-
14 priate; provide for the lending of funds to individuals or orga-
15 nizations for the construction of homes and other purposes
16 that would promote economic development of the natives;
17 provide loans or grants to native groups, or regional or gov-
18 erning bodies or native corporations for the purpose of fos-
19 tering the health and welfare of the people; provide loans for
20 the education of individual natives; provide emergency or
21 charitable grants and loans to individuals and communities in
22 times of distress; sell, lease, or otherwise dispose of its lands;
23 and promote the economic development of the native and the
24 native groups to the greatest possible extent. The corporation
25 shall establish such rules and procedures as it deems appro-

1 priate in carrying out the provisions of this subsection. For a
2 period of ten years after incorporation the corporation shall
3 not in any one fiscal year issue dividends or make any grants
4 or unsecured loans the total amount of which equal more
5 than one-half the sum of the corporation's profits and addi-
6 tions to its capital from the fund during the previous fiscal
7 year. For a period of ten years after incorporation, its profits
8 shall not be subject to Federal or State tax laws.
9 (g) The corporation shall be subject to audit by the
10 General Accounting Office for a period of ten years after
11 the date of incorporation. After final audit by the General
12 Accounting Office and the filing of a summary financial
13 report with the Congress, the limitations established under
14 this section applicable to the corporation shall terminate
15 and the corporation shall continue in business under the
16 appropriate laws of the State of Alaska. For the ten years
17 from and after the date of incorporation, the corporation
18 shall be considered a public instrumentality eligible for
19 grants and contracts for planning and development programs
20 which will assist the natives and the native groups under
21 any Federal law.
22 (h) The Secretary of the Treasury shall pay annually
23 to the corporation beginning on the date of incorporation
24 and on July 1 of each fiscal year thereafter for a period
25 of ten years from the fund all the moneys therein, or

1 $100,000,000, whichever is less. Such payments shall not
2 be taxable under Federal or State laws.

3 WITHDRAWAL OF PUBLIC LANDS

4 SEC. 8. (a) Public Land Order Numbered 4582, 34
5 Federal Register 1025, is hereby revoked. For the purposes
6 of this Act and for a period of ten years after the effective
7 date of this Act—
8 (1) There is hereby withdrawn from all forms of ap-
9 propriation under the public land laws, including the mining
10 laws, but not the mineral leasing laws, all public lands in the
11 State of Alaska, except lands withdrawn for national defense
12 purposes other than petroleum reserve numbered 4, in each
13 township as shown on current plats of survey or protraction
14 diagrams of the Bureau of Land Management which encloses
15 all or part of any native village listed as follows:

16 NAME OF PLACE AND REGION

17 Akhiok, Kodiak.
18 Akiachak, Southwest Coastal Lowland.
19 Akiak, Southwest Coastal Lowland.
20 Akutan, Aleutian.
21 Alakanuk, Southwest Coastal Lowland.
22 Aleknagik, Bristol Bay.
23 Alatna, Koyukuk-Lower Yukon.
24 Allakaket, Koyukuk-Lower Yukon.
25 Ambler, Bering Strait.

17

1	Anaktuvuk Pass, Arctic Slope.
2	Andreafsey, Southwest Coastal Lowland.
3	Angoon, Southeast.
4	Aniak, Southwest Coastal Lowland.
5	Anvik, Koyukuk-Lower Yukon.
6	Arctic Village, Upper Yukon-Porcupine.
7	Atka, Aleutian.
8	Atkasook, Arctic Slope.
9	Barrow, Arctic Slope.
10	Beaver, Upper Yukon-Porcupine.
11	Belkofsky, Aleutian.
12	Bethel, Southwest Coastal Lowland.
13	Bill Moore's, Southwest Coastal Lowland.
14	Biorka, Aleutian.
15	Birch Creek, Upper Yukon-Porcupine.
16	Brevig Mission, Bering Strait.
17	Buckland, Bering Strait.
18	Candle, Bering Strait.
19	Cantwell, Cook Inlet
20	Canyon Village, Upper Yukon-Porcupine.
21	Chalkyitsik, Upper Yukon-Porcupine.
22	Chanilut, Southwest Coastal Lowland.
23	Chefornak, Southwest Coastal Lowland.
24	Chevak, Southwest Coastal Lowland.

18

1 Chignik, Kodiak.

2 Chignik Lagoon, Kodiak.

3 Chignik Lake, Kodiak.

4 Chistochina, Copper River.

5 Chukwuktoligamute, Southwest Coastal Lowland.

6 Circle, Upper Yukon-Porcupine.

7 Clark's Point, Bristol Bay.

8 Copper Center, Copper River.

9 Craig, Southeast.

10 Crooked Creek, Upper Kuskokwim.

11 Deering, Bering Strait.

12 Dillingham, Bristol Bay.

13 Dot Lake, Tanana.

14 Eagle, Upper Yukon-Porcupine.

15 Eek, Southwest Coastal Lowland.

16 Egegik, Bristol Bay.

17 Eklutna, Cook Inlet.

18 Ekuk, Bristol Bay.

19 Ekwok, Bristol Bay.

20 Elim, Bering Strait.

21 Emmonak, Southwest Coastal Lowland.

22 English Bay, Cook Inlet.

23 False Pass, Aleutian.

24 Fort Yukon, Upper Yukon-Porcupine.

25 Gakona, Copper River.

19

1 Galena, Koyukuk-Lower Yukon.

2 Gambell, Bering Sea.

3 Georgetown, Upper Kuskokwim.

4 Golovin, Bering Strait.

5 Goodnews Bay, Southwest Coastal Lowland.

6 Grayling, Koyukuk-Lower Yukon.

7 Gulkana, Copper River.

8 Hamilton, Southwest Coastal Lowland.

9 Holy Cross, Koyukuk-Lower Yukon.

10 Hoonah, Southeast.

11 Hooper Bay, Southwest Coastal Lowland.

12 Hughes, Koyukuk-Lower Yukon.

13 Huslia, Koyukuk-Lower Yukon.

14 Hydaburg, Southeast.

15 Igiugig, Bristol Bay.

16 Iliamna, Cook Inlet.

17 Inalik, Bering Strait.

18 Ivanof Bay, Aleutian.

19 Kake, Southeast.

20 Kaktovik, Arctic Slope.

21 Kalskag, Southwest Coastal Lowland.

22 Kasaan, Southeast.

23 Kaltag, Koyukuk-Lower Yukon.

24 Karluk, Kodiak.

25 Kasigluk, Southwest Coastal Lowland.

1 Kiana, Bering Strait.

2 King Cove, Aleutian.

3 Kipnuk, Southwest Coastal Lowland.

4 Kivalina, Bering Strait.

5 Klawock, Southeast.

6 Klukwan, Southeast.

7 Kobuk, Bering Strait.

8 Koliganek, Bristol Bay.

9 Kokhanok, Bristol Bay.

10 Kongigonak, Southwest Coastal Lowland.

11 Kotlik, Southwest Coastal Lowland.

12 Kotzebue, Bering Strait.

13 Koyuk, Bering Strait.

14 Koyukuk, Koyukuk-Lower Yukon.

15 Kwethluk, Southwest Coastal Lowland.

16 Kwigillingok, Southwest Coastal Lowland.

17 Larsen Bay, Kodiak.

18 Levelock, Bristol Bay.

19 Lime Village, Upper Kuskokwim.

20 Lower Kalskag, Southwest Coastal Lowland.

21 McGrath, Upper Kuskokwim.

22 Makok, Koyukuk-Lower Yukon.

23 Manley Hot Springs, Tanana.

24 Manokotak, Bristol Bay.

25 Marshall, Southwest Coastal Lowland.

21

1 Mary's Igloo, Bering Strait.

2 Medfra, Upper Kuskokwim.

3 Mekoryuk, Southwest Coastal Lowland.

4 Mentasta Lake, Copper River.

5 Metlakatla, Southeast.

6 Minchumina Lake, Upper Kuskokwim.

7 Minto, Tanana.

8 Mountain Village, Southwest Coastal Lowland.

9 Nabesna Village, Tanana.

10 Naknek, Bristol Bay.

11 Napaimute, Upper Kuskokwim.

12 Napakiak, Southwest Coastal Lowland.

13 Napaskiak, Southwest Coastal Lowland.

14 Nelson Lagoon, Aleutian.

15 Newhalen, Cook Inlet.

16 Nenana, Tanana.

17 New Stuyahok, Bristol Bay.

18 Newtok, Southwest Coastal Lowland.

19 Nightmute, Southwest Coastal Lowland.

20 Nikolai, Upper Kuskokwim.

21 Nikolski, Aleutian.

22 Ninilchik, Cook Inlet.

23 Noatak, Bering Strait.

24 Nome, Bering Strait.

22

1 Nondalton, Cook Inlet.

2 Nooiksut, Arctic Slope.

3 Noorvik, Bering Strait.

4 Northeast Cape, Bering Sea.

5 Northway, Tanana.

6 Nulato, Koyukuk-Lower Yukon.

7 Nunapitchuk, Southwest Coastal Lowland.

8 Ohogamiut, Southwest Coastal Lowland.

9 Old Harbor, Kodiak.

10 Oscarville, Southwest Coastal Lowland.

11 Ouzinkie, Kodiak.

12 Paradise, Koyukuk-Lower Yukon.

13 Paulof Harbor, Aleutian.

14 Pedro Bay, Cook Inlet.

15 Perryville, Kodiak.

16 Pilot Point, Bristol Bay.

17 Pilot Station, Southwest Coastal Lowland.

18 Pitkas Point, Southwest Coastal Lowland.

19 Platinum, Southwest Coastal Lowland.

20 Point Hope, Arctic Slope.

21 Point Lay, Arctic Slope.

22 Portage Creek (Ohgsenakale), Bristol Bay.

23 Port Graham, Cook Inlet.

24 Port Lions, Kodiak.

25 Port Heiden (Meshik), Aleutian.

23

1 Quinhagak, Southwest Coastal Lowland.
2 Rampart, Upper Yukon-Porcupine.
3 Red Devil, Upper Kuskokwim.
4 Ruby, Koyukuk-Lower Yukon.
5 Russian Mission (Kuskokwim) (or Chauthaluc),
6 Upper Kuskokwim.
7 Russian Mission (Yukon), Southwest Coastal Low-
8 land.
9 St. George, Aleutian.
10 St. Mary's, Southwest Coastal Lowland.
11 St. Michael, Bering Strait.
12 St. Paul, Aleutian.
13 Salamatof, Cook Inlet.
14 Sand Point, Aleutian.
15 Savonoski, Bristol Bay.
16 Savoonga, Bering Sea.
17 Saxman, Southeast.
18 Scammon Bay, Southwest Coastal Lowland.
19 Selawik, Bering Strait.
20 Shageluk, Koyukuk-Lower Yukon.
21 Shaktoolik, Bering Strait.
22 Sheldon's Point, Southwest Coastal Lowland.
23 Shishmaref, Bering Strait.
24 Shungnak, Bering Strait.
25 Slana, Copper River.

24

1	Sleetmute, Upper Kuskokwim.
2	South Naknek, Bristol Bay.
3	Squaw Harbor, Aleutians.
4	Stebbins, Bering Strait.
5	Stevens Village, Upper Yukon-Porcupine.
6	Stony River, Upper Kuskokwim.
7	Tanacross, Tanana.
8	Tanana, Koyukuk-Lower Yukon.
9	Tatitlek, Gulf of Alaska.
10	Telida, Upper Kuskokwim.
11	Teller, Bering Strait.
12	Tetlin, Tanana.
13	Togiak, Bristol Bay.
14	Toksook Bay, Southwest Coastal Lowland.
15	Tuluksak, Southwest Coastal Lowland.
16	Tuntutuliak, Southwest Coastal Lowland.
17	Tununak, Southwest Coastal Lowland.
18	Twin Hills, Bristol Bay.
19	Tyonek, Cook Inlet.
20	Ugashik, Bristol Bay.
21	Unalakleet, Bering Strait.
22	Unalaska, Aleutian.
23	Unga, Aleutian.
24	Uyak, Kodiak.
25	Venetie, Upper Yukon-Porcupine.

1 Wainwright, Arctic Slope.
2 Wales, Bering Strait.
3 White Mountain, Bering Strait.
4 Yakutat, Southeast.
5 (2) The Secretary shall withdraw from all forms of ap-
6 propriation under the public land laws, including the mining
7 laws, but not the mineral leasing laws, any public lands in
8 any townships, except lands described in paragraph (1)
9 of this subsection, which are adjacent to the townships
10 described in said paragraph and which the Commission
11 certifies to the Secretary to be needed by the native village
12 for reasonable expansion, or to fulfill future economic or
13 social requirements, or to provide access, or to insure that the
14 total area of land, including bodies of fresh water not in
15 State ownership, withdrawn around and adjacent to the
16 native village is equal to at least twenty-three thousand
17 and forty acres.
18 (3) The Secretary or, as appropriate, the Secretary of
19 Agriculture and the Secretary of Defense, is authorized and
20 directed to withdraw from all forms of appropriation under
21 the public land laws, including the mining laws, but not the
22 mineral leasing laws, any public lands in any other township
23 necessary (A) to settlement of a native group established as
24 of January 1, 1969, or (B) to a historic native village from

1 which the population has been required to move, because of
2 either direct or indirect actions of the Federal, State, or local
3 government, and to which twenty-five or more adult natives
4 wish to return and reside, or (C) to a place which constitutes
5 a new native village location to which by virtue of natural
6 phenomenon, or direct or indirect governmental actions,
7 twenty-five or more adult natives wish to relocate.
8 (b) All withdrawals authorized by paragraphs (2) and
9 (3) of subsection (a) of this section shall be made only after
10 a public hearing has been held in accordance with such pro-
11 cedures as the Secretary shall require. Each withdrawal shall
12 be initiated only after certification by the Commission that
13 the appropriate conditions set forth in this section have been
14 met relative to that withdrawal.
15 (c) Pending the disposition of any lands withdrawn
16 under this section, the Secretary is authorized to take such
17 actions as may be necessary to administer, manage, and
18 protect the withdrawn public lands for the benefit of the
19 corporation, and, after deducting the cost of administration
20 thereof, to deposit into the fund all revenues derived from
21 the lease, sale, or other disposal of the lands or interests
22 therein and the resources therein. The Secretary is author-
23 ized to lease, sell, or otherwise dispose of such lands or in-
24 terests therein and the resources therein in accordance with
25 the provisions of this Act.

1 (d) All public lands within any withdrawals provided
2 for in this section which have not been patented or in the
3 process of being patented under this Act ten years after the
4 effective date of this Act shall be returned to whatever status
5 they had on the effective date of such withdrawals.

6 SURVEYS

7 SEC. 9. The Secretary shall carry out a program of
8 townsite surveys and plat determinations within the areas
9 withdrawn pursuant to the provisions of section 8 of this Act
10 for the purpose of locating and defining the lands occupied
11 within such withdrawn areas as homes, businesses, sub-
12 sistence campsites, and for religious, educational, com-
13 munity, governmental, charitable, and other purposes. Such
14 surveys shall be completed prior to the issuance of any
15 patent to lands in such areas pursuant to the provisions of
16 this Act.

17 CONVEYANCE OF LANDS

18 SEC. 10. (a) Upon completion of the surveys required
19 by section 9 of this Act, the Secretary is authorized to issue
20 a patent to the surface of any public lands within areas with-
21 drawn under this Act to the individual or organization oc-
22 cupying such land at the time of the survey. If application
23 is made for the same lands by more than one individual or
24 organization, determination of who shall receive such land

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1 shall be made by the Commission after public hearing. Such
2 patent shall be issued on the following terms:
3 (1) patents to natives and to religious, educational,
4 community, governmental, charitable, and other non-
5 profit organizations shall be made without payment
6 therefor; and
7 (2) patents to persons other than the natives shall
8 be made only upon payment of fair market value as
9 determined by the Secretary as of the date the patent is
10 issued.
11 (b) Any native who would otherwise be eligible to
12 receive a grant of public land under the terms of this sec-
13 tion and who, within a period beginning ten years prior
14 to the effective date of this Act, was required to move to
15 another location outside the withdrawn area because of an
16 action by a Federal, State, or local government, or any
17 native who occupies or has occupied land patented by the
18 United States to any other person, shall receive compensa-
19 tion from the fund in lieu of such land in such sum the
20 Commission determines to be appropriate.
21 (c) (1) The Secretary shall, upon application of any
22 local government established under the laws of the State of
23 Alaska, issue a patent without payment thereof to the surface
24 of any public land within a withdrawn area for which a
25 patent has not been issued or application therefor pending

1 under subsection (a) of this section: *Provided*, That such
2 land is within the jurisdiction of such local government.
3 (2) The Secretary shall, upon application of such local
4 government, issue, after a public hearing, a patent to the sur-
5 face of any public land selected by such government within
6 an area withdrawn under this Act but outside such govern-
7 ment's jurisdiction, except that the total conveyances under
8 this subsection shall not exceed twenty-three thousand and
9 forty acres for any such government.
10 (3) All public lands selected by such local governments
11 under this subsection shall be contiguous, except as separated
12 by bodies of water, and shall be in units of not less than one
13 hundred and sixty acres. Where more than one local govern-
14 ment makes application for the conveyance of the same pub-
15 lic lands, and such applicants are of more than one class of
16 government under the laws of the State of Alaska, prefer-
17 ence shall be given by the Secretary to the smallest unit of
18 local government. If application for patent to public land is
19 made by more than one local government and such land is
20 outside the jurisdiction of all applicant local governments
21 seeking the land, the determination of which local govern-
22 ment shall receive, the lands shall be made by the Commis-
23 sion, after public hearings.
24 (d) The Secretary shall issue patents without payment
25 therefor to the surface of any public land located in Alaska

1 which has been used by a native or native group for a period
2 of more than three years prior to the effective date of this
3 Act for the harvest of fish, wildlife, berries, fuel, or other
4 products of the land. Such patents shall be issued—
5 (1) for five-acre tracts for each subsistence use
6 campsite separated from the campsite of any other appli-
7 cant;
8 (2) for forty-acre tracts where the campsites of sev-
9 eral applicants are in such proximity to each other as to
10 make it not feasible to patent individual five-acre camp-
11 sites; or
12 (3) for larger tracts where individuals can estab-
13 lish, under such rules and regulations as the Commission
14 may prescribe, historic occupancy and use of the larger
15 tracts.
16 Pending the issuance of a patent for campsites under this
17 subsection the Secretary is authorized to permit the use of
18 such lands by such natives or native groups as campsites.
19 (e) The Secretary is authorized to issue a patent to the
20 surface of any public lands that on January 1, 1969, are
21 leased, permitted, or used for reindeer management purposes,
22 including summer and winter range facilities and intervening
23 line camps, to each bona fide reindeer husbandryman, fam-
24 ily, or village community reindeer association, or village
25 community governing body practicing reindeer management,

1 Maximum acreage permitted under this subsection under any
2 patent is two thousand five hundred and sixty acres. Lands
3 patented under this subsection shall be in addition to, and
4 not in lieu of, any other rights authorized by this Act.

5 (f) Upon application, the Secretary shall, for a period
6 of ten years after the effective date of this Act, grant a
7 patent to the surface of any tract of unreserved and unappro-
8 priated public lands in Alaska not in excess of one hundred
9 and sixty acres, without payment therefor, to any native
10 nineteen years of age or older, whose primary place of resi-
11 dence is outside the limits of the withdrawn areas provided
12 for in section 8 (a) of this Act, subject to a reservation in
13 the United States for access or rights-of-way for public roads
14 or utilities.

15 (g) The Secretary shall patent to the corporation the
16 mineral estate of any withdrawn lands patented under this
17 section. The corporation may not sell or transfer such
18 mineral estate to anyone, except the United States or the
19 State of Alaska, but may lease any or all of said minerals
20 in accordance with the provisions of this Act.

21 (h) In carrying out the provisions of this section,
22 patents shall be issued in accordance with the following
23 priorities:

24 (1) Within the township withdrawals provided for in
25 section 8 (a) of this Act:

1 (A) land for individual use;

2 (B) subsistence campsites; and

3 (C) community lands.

4 (2) Outside the withdrawals as provided in section 10
5 of this Act:

6 (A) isolated homesites;

7 (B) subsistence campsites;

8 (C) lands for reindeer husbandry; and

9 (D) disposal for other purposes.

10 (i) Public lands within the withdrawals not patented
11 under the foregoing subsections may be opened to settlement
12 and occupation by the Secretary upon recommendation of
13 the Commission. Entitlement to patent to the surface of such
14 lands shall be in accordance with regulations, procedures, and
15 criteria established by the Commission which regulations,
16 procedures, and criteria shall not discriminate between natives
17 and nonnatives. The surface of public lands occupied by
18 natives under this subsection shall be patented to such natives
19 without payment therefor, and the surface of lands occupied
20 by nonnatives shall be patented to them after payment of
21 the fair market value thereof, as determined by the Secretary
22 as of the date of the patent.

23 (j) All withdrawals and patents of lands or interests
24 therein under this section shall be subject to valid existing
25 rights of any person, and the Secretary shall take such

1 measures as he deems appropriate, in consultation with the
2 Commission, to extinguish such rights where they conflict
3 with the grants made in this section, except easements or
4 rights-of-way for public purposes.
5 (k) Where, prior to patent of the surface of any land
6 under this section, a contract, lease, or permit has been issued
7 for the utilization of mineral or surface resources such patent
8 shall contain provisions making the patent subject to the
9 lease or contract and the right of the lessor or contractor to
10 the complete enjoyment of all rights, privileges, and benefits
11 granted him by such lease or contract. All income derived
12 from any such lease or contract, after allowance for adminis-
13 trative costs as determined by the Secretary, shall be paid
14 to the corporation.
15 COMPENSATION FOR LANDS PREVIOUSLY TAKEN
16 SEC. 11. There is hereby authorized to be appropriated
17 $100,000,000 to be paid into the fund as compensation for
18 native rights in lands withdrawn by the United States and
19 in lands selected by Alaska under the Statehood Act of
20 July 7, 1958 (72 Stat. 339), prior to the effective date of
21 this Act.
22 MINERAL LEASING ACT
23 SEC. 12. (a) (1) Except as provided in subsection (b)
24 of this section, deposits of coal, phosphate, sodium, potassium,
25 oil, oil shale, gas, or sulfur located in all public lands in Alaska

1 shall be subject to disposition by the Secretary under the
2 terms of this Act. After the effective date of this Act, the Sec-
3 retary is authorized to dispose of such deposits upon applica-
4 tion therefor or upon his own motion under such competitive
5 bidding procedures, using oral or sealed bidding or a com-
6 bination thereof, as the Secretary may prescribe by regula-
7 tion. The provisions of the Mineral Leasing Act of Febru-
8 ary 25, 1920, as amended and supplemented (41 Stat. 437,
9 30 U.S.C. sec. 181 and following), shall apply to the extent
10 that such provisions are not inconsistent with this Act.
11 (2) For a period of ten years after the effective date of
12 this Act, all revenues derived from the disposition of such
13 minerals shall be distributed as provided in the Statehood Act
14 of July 1, 1958 (72 Stat. 339), except that ten per centum
15 of such proceeds shall be deducted and paid into the fund,
16 prior to calculating the shares as set forth in the Statehood
17 Act of July 7, 1958.
18 (b) (1) The Secretary, with the concurrence of the Sec-
19 retary of Defense, is authorized to dispose of deposits of coal,
20 phosphate, sodium, potassium, oil, oil shale, gas, or sulfur
21 located within naval petroleum reserve numbered 4 either
22 upon application therefor or upon his own motion upon such
23 competitive bidding procedures, using oral or sealed bidding
24 or a combination thereof, as the Secretary may prescribe by
25 regulation. The provisions of the Mineral Leasing Act of Feb-

1 ruary 25, 1920, as amended and supplemented, shall apply to
2 the extent that such provisions are not inconsistent with this
3 Act.
4 (2) All revenues derived from the disposition of such
5 minerals for a period of ten years after the effective date of
6 this Act shall be apportioned as follows:
7 (A) Ten per centum to be returned to the Treasury
8 of the United States as miscellaneous receipts;
9 (B) Forty-five per centum to be returned to the
10 Treasury of the United States until such time as the
11 amount reaches $50 million to compensate the United
12 States for the expenses of past exploration of the area,
13 and thereafter such sum shall be paid into the fund;
14 and
15 (C) Forty-five per centum to be paid into the
16 fund.
17 After the ten-year period set forth in this Act has expired,
18 the entire revenues derived from the disposition of minerals
19 from naval petroleum reserve numbered 4 will be paid into
20 the Treasury of the United States as miscellaneous receipts.
21 (c) Ten per centum of all revenues received by the
22 United States from the disposition of minerals from the
23 Outer Continental Shelf bordering the State of Alaska shall
24 be deposited in the fund for a period of ten years after the
25 effective date of this Act.

1 (d) (1) Any person who claims or may hereafter claim
2 an interest in an unpatented mining claim in Alaska for
3 which application for patent is not on file with the Secre-
4 tary on the effective date of this Act shall record within
5 one year after the effective date of this Act or within sixty
6 days after location of such claim, whichever is first, with
7 the Secretary a "Declaration of Interest in Mining Claim"
8 setting forth a description of the claim and such other in-
9 formation as the Secretary may require by regulation. Any
10 mining claim in Alaska not so recorded within the time
11 prescribed shall be null and void, except that recordation
12 shall not be construed as rendering valid any mining claim
13 which is invalid on the effective date of this Act or which
14 becomes invalid thereafter under the mining laws.
15 (2) The Secretary shall collect, in accordance with
16 regulations prescribed by him, a royalty of 5 per centum of
17 the value of locatable minerals, which value will be deter-
18 mined at the mine, extracted from mining claims in Alaska
19 located and recorded after the effective date of this Act. A
20 royalty of less than 5 per centum may be collected by the
21 Secretary upon a satisfactory showing that the royalty
22 should be reduced in order to operate the claim successfully.
23 For a period of ten years after the effective date of this Act,
24 10 per centum of the revenues resulting from such royalty
25 shall be deposited into the Treasury of the United States

1 as miscellaneous receipts, and the remaining 90 per cen-
2 tum shall be deposited into the fund, and thereafter the
3 entire revenues derived from this royalty shall be deposited
4 into the Treasury of the United States as miscellaneous
5 receipts. As used in this section, the term "locatable minerals"
6 includes any mineral not subject to disposal under (A) the
7 Mineral Leasing Act of February 25, 1920, as amended or
8 supplemented or (B) the Act of July 31, 1947 (61 Stat.
9 681; 30 U.S.C. 601), as amended.
10 (e) For a period of ten years after the effective date of
11 this Act, 10 per centum of the revenues derived from the sale
12 or lease of surface resources located on public lands in Alaska,
13 except those withdrawn by section 8 of this Act, will be
14 deposited into the fund, and shall be deducted before any
15 distribution is made of such revenues under any other provi-
16 sion of law.
17 (f) For a period of ten years after the effective date
18 of this Act, there shall be deposited into the fund an amount
19 equal to 10 per centum of the revenues collected by the
20 State of Alaska or accruing to said State from public lands
21 patented to the State of Alaska after December 31, 1968,
22 including, but not limited to, receipts from the sale or lease
23 of such lands or minerals therein, and in the event of default
24 by the State of Alaska in making such payments there

1 shall be deducted annually from such moneys during such
2 period the share of mineral revenues from public lands in
3 Alaska paid as Federal grants-in-aid to the State of Alaska
4 and any other funds paid to the State of Alaska by the
5 United States.

6 PROTECTION OF SUBSISTENCE RESOURCES

7 SEC. 13. Notwithstanding any other provision of law,
8 for a period of ten years after the effective date of this Act,
9 the Secretary, upon petition by any individual residing in
10 Alaska or by the Department of Fish and Game of the
11 State of Alaska, shall, after a public hearing, and under
12 such rules and regulations as he may prescribe, determine
13 whether or not an emergency exists with respect to the
14 depletion of subsistence biotic resources in any given area
15 of the State and may thereupon delimit and declare that
16 such area will be closed to entry for hunting, fishing, or
17 trapping, except by residents of such area, subject to the
18 provisions of any treaty concerning such resources. The
19 closing authorized by this section shall not be for a period
20 of more than three years, and may be extended by the
21 Secretary after hearing, and a published finding that the
22 emergency continues to exist. Any person knowingly hunt-
23 ing, fishing, or trapping in such area, except a resident
24 thereof, may, upon conviction, be required to forfeit any
25 gear, vehicle, boat, or aircraft used in connection with such

1 violation, and shall, upon conviction, be subject to a fine
2 of $1,000, or a year in prison, or both.

3 THE TLINGIT-HAIDA SETTLEMENT

4 SEC. 14. Notwithstanding any other provision of law,
5 the Tlingit-Haida Indians are hereby authorized to vote,
6 under procedures established by their governing body under
7 their organizational document, whether they shall be in-
8 cluded under all the provisions of this Act and relinquish
9 title to the two and six-tenths million acres of land in south-
10 east Alaska held under "Indian title" and confirmed in them
11 by the court of claims on January 19, 1968, in "The Tlingit
12 and Haida Indians of Alaska versus United States (389F
13 2d. 778)", and accept as a credit against all future compen-
14 sation to be paid to them under the provisions of this Act
15 the amount of $7,500,000 as full settlement of their claims
16 against the United States which sum shall be a lien against
17 the shares of the corporation set aside for the Tlingit-Haida
18 Indians. The corporation, for a period of ten years after its
19 incorporation, shall withhold dividends on the shares set
20 aside for the Tlingit-Haida Indians until the amount of such
21 dividends equals $7,500,000. If, at the end of such period,
22 the amount of dividends withheld by the corporation, does
23 not equal $7,500,000, the individual shares distributed to
24 the Tlingit and Haida Indians by the corporation under this
25 Act shall be sold, transferred, or assigned only after the cor-

1 poration has been paid that portion of the outstanding lien
2 against such share at the time of its distribution. The Secre-
3 tary is authorized to patent upon certification to him of
4 the results of the vote provided herein by the tribe's govern-
5 ing body the two and six-tenths million acres confirmed in
6 the Tlingit and Haida Indians by the court of claims to the
7 Tlingit-Haida governing body or its successor, except that
8 the mineral estate shall not be patented to anyone other
9 than the United States or the State of Alaska.

10 TANAINA INDIANS

11 SEC. 15. Notwithstanding any other provision of law,
12 the Tanaina Indians of the Moquawkie Reservation (here-
13 inafter referred to as the Tyonek Indians) may vote, under
14 procedures established by the existing Tyonek Council,
15 whether their tribe, in lieu of any benefits under this Act,
16 (a) shall accept a grant to the Tyonek Council of twenty-
17 six thousand nine hundred and eighteen acres of such reser-
18 vation, with a reservation that the mineral estate underlying
19 such lands may not be sold or transferred by the Tyonek
20 Indians to anyone other than the United States or the State
21 of Alaska; or (b) accept abolition of the reservation and a
22 grant of the lands within such reservation to a local govern-
23 ment body organized under the laws of the State of Alaska
24 with a reservation that the mineral estate underlying such
25 lands may not be sold or transferred to anyone other than

1 the United States or the State of Alaska; or (c) accept aboli-
2 tion of the reservation and be entitled to the benefits of this
3 Act. Upon certification to the Secretary of the results of
4 the vote required by this section, the Secretary is authorized
5 to carry out either selection made by the Tyonek Indians
6 in accordance with the provisions of this section. If the
7 Tyonek Indians select to follow the provisions of either clause
8 (a) or (b) of this section, the Secretary is authorized to
9 enter into contracts with the grantees for the development
10 of the mineral estate underlying such lands.

11 REVOCATION OF RESERVATIONS

12 SEC. 16. Notwithstanding any other provision of law,
13 and except where inconsistent with the provisions of this Act,
14 the various reserves set aside by legislation or by Executive
15 or secretarial order for native use or for administration of
16 native affairs, including those created under the Act of
17 May 31, 1938 (52 Stat. 593), are hereby revoked, subject
18 to any valid existing rights of any nonnatives.

19 REVIEW BY CONGRESS

20 SEC. 17. The Commission and the Secretary shall sub-
21 mit to the Congress annual reports on implementation of this
22 Act. Such reports to be filed by the Commission until its
23 termination, and by the Secretary annually for a period of
24 ten years beginning one year after the effective date of this
25 Act. At the beginning of the first session of Congress preced-

1 ing ten years from the effective date of this Act, the Commis-
2 sion and the Secretary shall submit, through the President, a
3 joint report of the status of the natives and native groups in
4 Alaska, and a summary of actions taken under this Act, to-
5 gether with such recommendations as may be appropriate
6 for continuation or modification of any provisions of this Act
7 which will specifically expire at the end of such ten years.

8 APPROPRIATIONS

9 SEC. 18. There is authorized to be appropriated to the
10 Secretary of the Interior such sums as may be necessary to
11 carry out the functions and responsibilities that he is required
12 to perform under the provisions of this Act. Such sums shall
13 remain available until expended.

14 PUBLICATION

15 SEC. 19. The Secretary of the Interior is authorized to
16 issue and publish in the Federal Register, pursuant to the
17 Administrative Procedures Act (5 U.S.C.) such regulations
18 as may be necessary to carry out the purposes of this title.

19 SAVINGS CLAUSE

20 SEC. 20. Except as specifically provided for in this Act,
21 nothing in this Act shall be construed as repealing any other
22 provision of Federal law applicable to Alaska. To the extent
23 that there is a conflict between any provision of this Act and
24 any other Federal laws applicable to Alaska, the provisions of
25 this Act shall govern.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 28, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Your Comittee has requested the views of this Department on S. 1830, the Alaska Native Claims Settlement Act of 1969.

As your Committee is aware, the problem of settlement of Native land claims has been a concern to the United States for some time. During the last Congress, hearings were held by your Committee in Alaska on a number of legislative proposals then pending and on the Native land claim problem in general. As an outgrowth of those hearings, the Federal Field Committee for Development Planning in Alaska prepared two reports which were released in February of this year. The first report was a thorough study attempting to bring together all of the information relative to the economic and social conditions of the Alaska Native, the resources of Alaska, and concluded by suggesting alternative methods for settlement of the issue. The second report described in outline form the alternative legislative provisions necessary to settle the issue. As you indicated at the time you introduced S. 1830, the Department of the Interior prepared the initial draft as a drafting service and the bill was introduced after some modifications were made by the Committee Staff, as a means of carrying out the recommendations of the Field Committee.

The following is a discussion of the basic provisions of S. 1830 including some Departmental comments and suggestions. The Department requests an opportunity to make additional comments and offer specific language at a later date.

DECLARATION OF POLICY

Section 1 of the bill sets forth the declaration of policy. It states that Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska. It further states that the intent of the bill is to provide: (1) a grant to Native individuals of certain lands, (2) a grant to communities of certain lands, (3) measures for the conservation of subsistence biotic resources and a priority for their utilization, (4) a grant of $100,000,000 to a new Corporation owned by Alaska Natives for lands previously taken, and (5) a grant to the new Corporation of approximately 10 percent of the income from leasing and sale of minerals and other resources from Federal lands in Alaska over a period of 10 years, including State lands patented after the effective date of the Act, as compensation for the extinguishment of all remaining aboriginal rights.

The Department agrees that there is an immediate need for a fair and just settlement of the Native claims, however, we do not support all of the proposed methods of settlement as set forth in the bill nor do we agree with the proposed language of this section.

DEFINITIONS

In general the Department supports the provisions of section 2 of the bill setting forth the definitions. We do, however, have the following recommendations:

1. Subsection (b) attempts to define the term "Native." Although we support the first part of the definition establishing the degree of blood relationship, we feel that the subsequent language classifying as a Native anyone recognized by a Native group as an Alaska Indian, Eskimo, or Aleut is far too vague and will result in endless controversy. We also feel that the Field Study report intended to exclude all Tsimshian Indians, not simply those living in Metlakatla.

2. Subsection (c) attempts to define the term "Native group." We feel that some difficulty may develop in interpreting this definition.

3. Subsection (e) attempts to define the term "public lands." The definition is broad enough to include military reservations, forest lands, lands within the National Park and National Wildlife Refuge Systems, Naval Petroleum Reserve No. 4, and the Pribilof Islands. We recognize that there are Native groups presently living in these areas and for this reason we do not object to the inclusion, however, we do recommend that in certain instances in the bill these areas be specifically excluded.

4. Subsection (g) attempts to define the term "person." The definition specifically includes the State of Alaska. It is our feeling that the State should not

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be included in this definition, but rather should be specifically referred to where applicable in the bill.

5. As a result of certain suggestions we will have to subsequent sections of the bill, we suggest that the definition of the fund be deleted.

DECLARATION OF SETTLEMENT

Section 3(a) states that the Act extinguishes any and all claims against the United States based upon aboriginal right, title, use, or occupancy of lands in Alaska including claims pending before the Indian Claims Commission on the effective date of the Act. The Department supports this provision.

Section 3(b) would authorize an appropriation of funds to the Alaska Native Commission to pay all reasonable attorneys' fees and expenses actually incurred by any Native or Native group, as determined by such Commission, in connection with any claims pending before the Indian Claims Commission on the date of enactment of the bill which are dismissed as a result of its enactment.

We recognize that a number of attorneys have entered into contingent contracts with Natives or Native groups, which have been approved by the Secretary of the Interior, to represent Natives or Native groups in connection with claims pending before the Indian Claims Commission. Since passage of this bill would terminate these claims, we support the proposal that funds be appropriated to pay the attorneys' fees and expenses. However, since the contracts are approved by the Secretary of the Interior, we believe that the funds should be appropriated to the Secretary and not the Commission and the Secretary should determine the appropriateness of payment.

ALASKA NATIVE COMMISSION

While we support generally the provisions of section 4, we would like to make the following specific comments:

1. Subsection (a) establishes an Alaska Native Commission. The life of the Commission shall be for a period of 10 years, it shall be composed of five members appointed by the President. The chairman shall be appointed by and with the consent of the Senate. The laws and regulations on conflict of interest applicable to other Federal employees shall not apply to members of the Commission.

Regarding the establishment of the Commission, we assume that it is intended that such Commission shall operate independently of all established Departments of the State and Federal Government. We recommend that consideration be given to make the Commission an agency of the Department of the Interior.

With respect to the laws and regulations on conflict of interest, it is our position that these should apply to members of the Commission in the same manner as they apply to other Federal employees. We see no valid reason for exempting them from this coverage.

2. Subsection (c) sets forth the rate of compensation for the members of the Commission. Except for the chairman, it appears that the members will not be full-time Federal employees. Because of the magnitude of the functions and intensity with which they must be performed, it is our recommendation that all of the Commission members be full-time Federal employees.

The section fails to provide for the orderly disposition of claims pending before the Commission at the end of the Commission's 10-year life. We recommend that the bill be amended to add language providing that the Commission continue to function, for a period not to exceed one year, after the end of such 10-year period for the sole purpose of disposing, in an orderly manner, of all disputes pending at the end of such 10-year period.

The section also fails to set forth the duties and responsibilities of the Commission. We feel that some language is needed to clarify this issue and we will recommend such language at a later time.

ENROLLMENT

Section 5 provides that the Secretary, in accordance with regulations issued by the Commission, shall prepare an initial roll of Natives which shall be used for identifying those entitled to be shareholders in the Corporation together with a roster of Native groups eligible for benefits under the Act. The initial roll is to include only those Natives who are living on December 31, 1968. A final roll will be prepared on December 31, 1978, and will include all eigible Natives living on that date. The section further provides that the roll shall be approved

by the Commission prior to becoming final and any applicant denied enrollment shall be entitled to a hearing before the Commission and judicial review.

We believe that specific dates should be eliminated and in lieu thereof the effective date of the Act and 10 years later be substituted.

We are in agreement with maintaining a roll of eligible Natives and agree that the final roll should indicate only eligible Natives born on or before the effective date of the Act and living 10 years thereafter.

ALASKA NATIVE COMPENSATION FUND

Section 6 of the bill establishes in the Treasury of the United States an Alaska Native Compensation Fund. It provides that the fund is for the benefit of the Natives and Native groups of Alaska. It also provides that moneys deposited in the fund shall be available until expended. The Secretary of the Treasury is authorized to make payment, with the approval of the Commission, to any Native, Native group, or the Corporation in accordance with the provisions of the Act.

As a result of the recommended changes which we will propose regarding the financial section of the bill, the establishment of a Native Compensation Fund is unnecessary. We, therefore, recommend that it be deleted from the bill.

ALASKA NATIVE DEVELOPMENT CORPORATION

Section 7 authorizes the establishment of an Alaska Native Development Corporation as an Alaska corporation. The Corporation for a period of 10 years shall be subject to the provisions of the Act, and to the extent consistent with the Act, to the corporation laws of Alaska. The Commission is to appoint the incorporators, one of whom is to be the chairman of the Commission. The incorporators are to serve as the initial board of directors. The sum of $1,000,000 is to be paid from the fund to serve as the initial capital of the Corporation.

The board of directors is composed of nine members, 4 of whom are appointed by the President, with the advice and consent of the Senate, and 4 of whom are Natives elected by enrolled Natives. Their term of office is 4 years except for the first board whose members have staggered terms. After a period of 3 years the Board is increased to 11 members with the additional two being Natives elected for 2-year terms. The chairman of the Commission is an ex officio member of the board.

The bill provides that the Corporation shall have a president and such other officers as determined by the board. Their rate of compensation is determined by the board.

The bill further provides that the Corporation shall be authorized to issue one million shares of no par common stock and to have outstanding shares equal to ten times the number of Natives enrolled on the date of incorporation. The stock will entitle the shareholder to voting and dividend rights, however, for a period of 10 years after the date of incorporation the stock will be held in trust for the Native stockholder by the board of directors of the Corporation. The bill provides that the Native stockholder shall have only a life interest in the shares of the Corporation during the 10-year period and in the event he dies during that time his interest in the stock is lost and reverts back to the Corporation. Ten years after the date of incorporation ten shares of stock shall be issued to each eligible Native then alive and enrolled

The bill provides that the Corporation shall have the general authority to promote the economic development of the Native and the Native groups to the greatest possible extent. As a means of carrying out its objectives the Corporation shall, but is not limited to, pay dividends, lend funds for the construction of homes and other purposes, provide loans or grants to Native groups or other bodies, provide emergency or charitable grants or loans to individuals and communities and sell, lease, or otherwise dispose of its lands.

The bill provides that the Corporation for a period of 10 years after its incorporation shall not in any one fiscal year issue dividends or make grants or unsecured loans the total amount of which equals more than one-half the sum of the Corporation's profits and additions to its capital from the fund during the previous fiscal year. Also, for a period of 10 years after its incorporation the Corporation shall not be subject to Federal or State tax laws.

The bill provides that the Corporation for the 10-year period shall be subject to audit by the General Accounting Office. After such 10-year period the limitations established under the bill terminate and the Corporation shall continue

in business under the laws of the State of Alaska. During the 10-year period the Corporation is considered a public instrumentality eligible for grants and contracts for planning and development programs which will assist the Natives and the Native groups.

Section 7 concludes by providing that the Secretary of the Treasury shall pay annually to the Corporation beginning on the date of incorporation and on July 1 of each fiscal year thereafter for a period of 10 years from the fund all the moneys therein, or $100,000,000, whichever is less.

The Department feels that the concept of utilizing a business corporation to assist the Native people in their economic development is a sound and constructive approach. We believe that it is an important feature of any program to settle the Native claims. On the other hand, we have some reservations with respect to the provisions of the present bill.

First, we feel that the sum of $1,000,000 to be contributed to the Corporation as a capital contribution is probably excessive as an amount needed for incorporation purposes. If during the period from incorporation until the Corporation receives its first contribution of $25,000,000 in fiscal year 1971, additional funds are needed, perhaps an additional amount can be contributed and credited against the contribution in fiscal year 1971. Also the capital contribution, whatever the amount, should be paid from the United States Treasury rather than the fund.

Second, we would suggest that the President be authorized to appoint five individuals to the board of directors, one of whom shall be the chairman of the Commission until the Commission terminates. We would also suggest that the bill not provide that the board be increased to 11 members at the end of a 3-year-period, but that it continue to be composed of 5 members appointed by the President and 4 elected by the Natives for the full 10 years. Also, we would suggest that at the end of the 10-year period the term of office of all 5 Presidential appointed directors expire and that the stockholders hold a special election to fill the vacancies created.

Third, we do not feel that the board of directors of the Corporation should hold the stock in trust for the Natives during the 10-year period. Neither do we feel that the Native stockholder should have only a life interest in his shares. It seems to us that the trust arrangement would necessitate a fairly detailed trust agreement and place an unnecessary fiduciary responsibility on the individual members of the board of directors. By giving the Native stockholders the voting rights in the shares the directors are placed in the hazardous position of fiduciary duty to the beneficiary stockholder while at the same time not having control of the Corporation at the stockholder level.

If the Native stockholder is to be given the voting and dividend right on his shares it would seem that he should be given title to the shares themselves. It may be desirable to prohibit alienation of the shares for the 10-year period either absolutely or to non-Natives, however, this can be accomplished by so providing in the Articles of Incorporation and on the stock certificates themselves. Consideration should also be given to requiring the Native stockholders to deposit their stock certificates with a bank or other financial institution under an escrow or some other similar type of arrangement for the 10-year period.

We also see no justification for limiting the stockholder's interest in the shares to a life estate. It seems more equitable to provide that in case of death within the 10-year period the Native can transfer either by will or intestate succession to either his spouse and/or his heirs at law the corporate stock.

Also in line with our recommendations as to section 5 of the bill, we feel that the stockholders of the Corporation should not be limited to only those Natives enrolled on the date of incorporation. The final roll of Natives will include all Natives born on or before December 31, 1968, and living on December 31, 1978. Therefore we recommend here that Natives living on December 31, 1968, but who for one reason or other did not enroll until sometime later, but prior to December 31, 1978, also be eligible for 10 shares of stock in the Corporation. The shares will be distributed to such Natives immediately upon enrollment.

We recognize that by adding the right of survivorship feature to the stock right the final roll of Natives prepared on December 31, 1978, will not be an accurate list of stockholders of the Corporation on that date. This, of course, is true because a spouse or heir of a deceased Native stockholder may not qualify as a Native himself. However, the Corporation will maintain its own list of stockholders and this should be kept current and accurate during the entire life of the Corporation.

Fourth, while we are in agreement with the general purposes for which the Corporation is to be organized, as set forth in subsection (f), we are concerned that some of these activities might be considered more in the nature of welfare. We recognize that there are presently existing welfare programs administered by Federal, State, and local governments for the benefit of all the State citizens. We also feel sure that new welfare programs will be developed during the life of the Corporation. We feel that some assurance should be given the Natives that all existing and future welfare programs will continue to be made available to them in the same manner and to the same degree as to all other State citizens. We suggest the Committee seek the views of the Department of the Treasury on the question of exempting the Corporation for the 10-year period from the Federal and State tax law.

We also note that the bill provides that to the extent consistent with the Act the laws of the State of Alaska applicable to corporations apply. We feel that further study should be made as to whether or not it is legally possible to create an Alaskan Corporation and provide that it will be subject to certain requirements or given certain authority that may not be consistent with the corporation laws of Alaska.

We suggest that both the study determining the applicability of State tax law and State corporate law include the views of the State of Alaska.

In lieu of subsection (h) of section 7 and also in lieu of section 12, except for section 12(a)(1), of the bill we recommend that the Secretary be authorized to pay to the Corporation beginning in fiscal year 1971 the sum of $25,000,000 and on July 1 of each fiscal year thereafter for a period of 19 years the sum of $25,000,000.

WITHDRAWAL OF PUBLIC LANDS

Section 8(a) of the bill would revoke the current land order freeze in Alaska and withdraw from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, all public lands in the State including Federal lands, except lands withdrawn for national defense purposes other than Petroleum Reserve No. 4, in each township as shown on current plats of survey or protraction diagrams of the Bureau of Land Management which encloses all or part of any Native village as listed in the bill.

This subsection also provides that the Secretary shall withdraw any public lands, from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, in any township adjacent to the township withdrawn under section 8(a)(1) when the Commission certifies to the Secretary that such land is needed by a Native village for reasonable expansion, or to fulfill future economic or social requirements, or to provide access, or to insure that the total land withdrawn around and adjacent to the Native village is equal to at least 23,040 acres.

This subsection further provides that the Secretary or the Secretary of Agriculture and the Secretary of Defense is authorized to withdraw any public lands from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, in any other ownership necessary (1) to settlement of a Native group established as of January 1, 1969, or (2) to a historic Native village from which the population has been required to move because of government action and to which 25 or more adult Natives wish to return and reside, or (3) to a place which constitutes a new Native village location to which by virtue of natural phenomenon, or governmental actions, 25 or more adult Natives wish to relocate.

The section further provides that prior to the disposition of withdrawn lands the Secretary is authorized to administer and manage them for the benefit of the Corporation. After deducting the expenses connected therewith, the Secretary is to deposit into the fund all revenues derived from the lease, sale, or other disposal of such lands or interest therein.

The Department is in agreement with the withdrawal concept of section 8(a)(1); however, we feel that such withdrawal should be subject to all valid existing rights. We also feel that the withdrawal under this subsection should assure a Native village of up to 46,080 acres. This could be accomplished by providing that the withdrawal should include not only the township in which the Native village is located, but also should include the public lands in the adjoining township. In instances where more than one Native village is located within the same two adjoining townships, a provision could be added giving the Secretary of the Interior authority to withdraw such land as is necessary to assure each

Native village of up to 46,080 acres. Further consideration should be given to this suggestion and proper language developed. The Department will submit language at a later date. We also suggest the addition of the words "or reserved" after the word "withdraw" where such is applicable to lands for national defense purposes. We further suggest that all withdrawals under the bill be subject to section 24 of the Federal Power Act as set forth in 16 U.S.C. 818.

The list of Native villages contained in subsection (1) is not correct. We would suggest the deletion of Metlakatla, Southeast; St. George, Aleutian St. Paul, Aleutian. We are concerned that with even these deletions the list may not be complete. Certainly, if this approach is followed, the list must include all Native villages if they are to benefit from the Act. Once enacted the list cannot be added to by an administrative order, but would require Congressional action.

We recommend the deletion of paragraph (2) as a result of the Department's position relative to the initial withdrawal.

The Department is in general agreement with the provisions of paragraph (3). We recommend, however, that the use of the term "public lands" for purposes of this subsection specifically exclude lands within National Parks, National Wildlife Refuge Systems, and National Forests. Also, to be consistent with our recommendations in subsection (1) we recommend here that the withdrawal be for any two adjacent townships.

The Department is in agreement with the provisions of subsection (b) requiring a public hearing prior to any withdrawal under the provisions of paragraph (3).

The Department is in agreement with the concept of subsection (c) authorizing the Secretary to administer, manage, and protect the withdrawn lands pending their disposition, however, we feel that the standard language used for purposes of other withdrawn lands should be substituted here. Such language provides that the withdrawal does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than the mining laws. We do not agree that the benefits derived during such period should go to the Corporation.

The Department recommends that as a means of being consistent with the other suggestions made to the bill, subsection (d) be amended to apply only to withdrawals made under subsection (3) of section 8(a).

SURVEYS

Section 9 provides that the Secretary shall carry out a program of townsite surveys and plat determinations within the withdrawn area.

We support this provision, however, it is not clear just how much of the survey must be completed prior to the issuance of any patent. It is our feeling that patents should be issued upon the completion of the survey of any two adjacent townships.

We wish to point out, however, that the conducting of such a survey will be extremely costly. We suggest that guidelines be established limiting the magnitude of the task.

CONVEYANCE OF LANDS

Section 10(a) provides that upon completion of the required survey, the Secretary is authorized to issue a patent to the surface of any public lands within areas withdrawn under the Act to the individual or organization occupying such land at the time of the survey. Patents shall be issued to Natives and nonprofit organizations without payment and to persons other than Natives for the fair market value.

Subsection (b) provides that any Native who would otherwise be eligible to receive a grant of land under the terms of the section and who, within a period of 10 years prior to the effective date of the Act, was required to move to another location outside the withdrawn area because of governmental action or a Native who occupies or has occupied land patented by the United States to any other person, shall receive compensation from the fund in lieu of such land.

The Department recommends that the patent issued under subsection (a) include not only the surface of the land, but also those minerals covered under the mining laws. We suggest that the term "occupying" may give rise to some question. Perhaps a definition of this term is needed in the bill. Also, we suggest that all conveyances be subject to valid and existing rights.

The Department is not clear as to the intent of subsection (b). Specifically we see no justification for paying compensation to a Native for land patented to

another simply because at some time in the past he has occupied the subject land. Also, in line with our suggestion regarding section 2 that "person" not include the State of Alaska we would recommend here that "or State of Alaska" be inserted after the words "to any other person." We further recommend that payments made under this section be made from the Corporation rather than the fund.

Subsection (c)(1) provides that the Secretary shall issue a patent to the surface without payment to any local government for all the withdrawn and unpatented lands within the jurisdiction of such local government.

In line with the Department's previous recommendation, we suggest that the patent issued under subsection (c)(1) include not only the surface of the land, but also those minerals covered under the mining laws. We also suggest that all conveyances be subject to valid and existing rights. Also, in line with our recommendations in section 8 we would suggest that this subsection be amended to provide that the Secretary shall issue a patent to the surface and those minerals covered under the mining laws without payment to any local government of up to 46,080 acres, taking into account such factors as population, economic resources of said group, traditional way of life of said group, and the nature and value of the land proposed to be patented. Further consideration should be given in conjunction with section 8 to develop the proper language. Also, the use of the term "local government" is somewhat confusing. We would suggest that in lieu thereof, the term "incorporated Native village" (established under the laws of the State of Alaska) be used throughout the Act.

The Department recognizes that lands located within a National Park, National Wildlife Refuge System, or National Forest present a unique and complicated problem. We suggest that further study be given to determine the proper and equitable method for handling this issue. We will submit at a later date specific recommendations to adequately overcome this problem after working with the appropriate government agencies.

In line with our recommendations above, we suggest that paragraph (2) be deleted.

Paragraph (3) provides that all public lands selected by the local governments shall be contiguous and shall be in units of not less than 160 acres. It also provides for the settlement of disputes where more than one local government makes application for conveyance of the same public lands. We feel that further consideration of this section should be given in view of our previous comments.

Subsection (d) provides for the issuance of various patents without payment therefor to the surface of public land which has been used by a Native or Native group for a period of more than three years prior to the Act for the harvest of fish, wildlife, berries, fuel, or other products of the land.

In general the Department is in agreement with the provisions of this subsection, however, as pointed out in our comments on section 8(a)(3), we recommend that the use of the term "public lands" for purposes of subsection (d) specifically exclude lands within National Parks, National Wildlife Refuge Systems, and National Forests. We also feel that the use of the term "Native group" may not be proper in this context. The conveyance of title to an unincorporated group might prove difficult. We therefore suggest that the term "incorporated Native village" be substituted. We also recommend that pargraph (3) be amended to contain an acreage limitation.

Subsection (e) authorizes the Secretary to issue a patent to the surface of any public lands that on January 1, 1969, were used for reindeer management purposes. The maximum permitted under this section is 2,560 acres.

While we agree with the concept of this section, we feel that the limitation imposed by limiting the land to only that used on January 1, 1969, is too restrictive. We feel that the Secretary, during the 10-year period, should be able to issue a patent to any land which he determines during such period to be used for reindeer management. Also, the language used does not state whether or not the patent will be issued without payment therefor. We assume it is to be issued without payment and would recommend that the provision be added. We also suggest that the use of the term "public lands" for purposes of this subsection specifically exclude lands within National Parks, National Wildlife Refuge Systems, and National Forests.

Subsection (f) provides that the Secretary, for a period of 10 years, upon application made shall grant a patent to the surface of any tract of unreserved and unappropriated public lands not in excess of 160 acres without payment, to

any Native 19 years old or older whose primary place of residence is outside the withdrawn area, subject to a reserved easement by the United States.

The Department feels that only lands classified for this purpose by the Secretary of the Interior should be available for this purpose.

Subsection (g) transfers the mineral estate of any withdrawn lands patented under this Act to the Corporation.

The Department recommends the deletion of this subsection since it is unnecessary as a result of our recommended changes in the bill. The Department recommends that title to the minerals covered by the mineral leasing laws remain in the United States.

Subsection (h) establishes certain priorities in issuing patents under the Act.

Subsection (i) provides that public lands within the withdrawn area not patented under the Act may be opened to settlement and occupation by the Secretary upon recommendation of the Commission.

It is our feeling that the surface of the lands and those minerals covered under the mining laws which have been withdrawn under section 8(a)(1) of the bill and not patented during the 10-year period should continue to be held in trust by the United States Government The surface and those minerals covered under the mining laws of these unpatented lands represent land withdrawn for the benefit of a Native village, however, at the end of the 10-year period the village was not incorporated and therefore was not entitled to a conveyance of the land withdrawn for its benefit. Rather than let the land go to individuals, whether they be Natives or non-Natives, it is our feeling that this land should continue to be held by the United States in trust for the benefit of the Native village and conveyed to the village upon its incorporation. It may be that some time limit should be placed on the trust and if the Native village fails to incorporate within the established time, it would lose any opportunity to receive the land. Ten years seems to be too short a time in which to require all Native villages to either incorporate or forfeit all rights under this Act. Perhaps an additional 10 years after the 10-year period would be a reasonable time period for the continuation of the trust arrangement.

All lands withdrawn under this bill which have not been patented at the end of such additional 10 years will return to whatever status they had on the effective date of such withdrawal.

We also would recommend that pending the disposition of such lands during the trust period the Secretary be authorized to administer, manage, and protect such land for the benefit of the Native village.

Subsection (j) provides that patents granted under this section shall be subject to valid existing rights except that the Secretary shall extinguish such right where they conflict with the grants made in this section, except easements or rights-of-way for public purposes.

We do not support the language giving the Secretary the right to extinguish conflicting prior existing rights. We feel that if there are existing rights which conflict with the provisions of this section in such instances additional land should be withdrawn to compensate fully the Natives.

Subsection (k) provides that where prior to the issuance of a patent to the surface of any land under the section a contract, lease, or permit has been issued for the utilization of mineral or surface resources such patent shall be subject to such contract, lease, or permit and contain language so providing. It further provides that all income derived from such lease or contract, after deduction of expenses, shall be paid to the Corporation. We agree that all patents issued under this Act should be subject to existing contracts, leases, or permits for the utilization of mineral or surface resources. We feel, however, that all income derived from such lease or contract should continue to be received by the present lessor or contractor in accordance with the agreement and such agreement should continue to be administered by the present lessor or contractor.

The Department recommends that a new subsection be added to section 10 of the bill providing that the Secretary in granting leases for minerals covered by the mineral leasing laws which minerals are under the land previously patented to individuals or organizations under section 10(a) or patented to incorporated Native Villages under section 10(c)(1) is authorized and directed to provide as a condition of the lease that the lessee will not conduct his activity in such a way as to adversely effect the patentee and further that the lessee will be financially responsible for any damage or harm done the patentee. We will offer specific language at a later time.

COMPENSATION FOR LANDS PREVIOUSLY TAKEN

Section 11 authorizes an appropriation to the fund of $100,000,000 as compensation for Native rights in lands withdrawn by the United States and in lands selected by Alaska under the Statehood Act, prior to the effective date of this Act.

The Department does not support the provisions of this section. The $25,000,000 paid to the Corporation in fiscal year 1971 and a like amount paid on each July 1 for 19 years thereafter, as suggested by our comments relative to section 7(h) represents the Department's view as to the fair and equitable settlement for the extinguishment of all Native land claims.

MINERAL LEASING

Section 12(a)(1) provides that deposits of coal, phosphate, sodium, potassium, oil, oil shale, gas, or sulfur located in all public lands in Alaska shall be subject to disposition by the Secretary upon application therefor or upon his own motion under such competitive bidding procedures as he may prescribe by regulations.

The Department believes that it is important for the Secretary to have specific authority to dispose of all minerals under the mineral leasing laws by competitive bidding. We are carefully reviewing this language to be sure that this objective will be adequately accomplished. We recommend, however, that the section be amended to insure that it covers all minerals included under the mineral leasing laws.

The balance of section 12, which sets forth various royalty arrangements to be paid into the fund should, in our opinion, be deleted. As we pointed out in commenting on section 11, the Department feels that the sum of $25,000,000 paid to the Corporation in fiscal year 1971 and annually for 19 years thereafter is a fair and equitable settlement for the extinguishment of all Native land claims.

PROTECTION OF SUBSISTENCE RESOURCES

Section 13 provides that for a period of 10 years the Secretary, upon petition by an individual residing in Alaska or by the Department of Fish and Game of the State of Alaska, may, after a public hearing, close for a period of up to 3 years areas to entry for hunting, fishing, or trapping, if he finds an emergency exists with respect to the depletion of subsistence biotic resources.

The Department does not support this section. It is our feeling that the Secretary should not be given the authority to close or otherwise regulate hunting and fishing lands in Alaska except those under Federal jurisdiction.

THE TLINGIT-HAIDA SETTLEMENT

Section 14 provides that the Tlingit-Haida Indians have the right to vote as to whether they want to be included under the Act and give up title to 2.6 million acres of land and accept as a credit against all future compensation an amount of $7,500,000 as full settlement of their claims.

The Department supports this provision of the bill, however, we feel a section should be added providing that in the event the tribe votes against the inclusion under the Act then in that event they will not be entitled to any of the benefits which the Act provides. We also suggest that language be added to charge interest against the tribe on the amount of $7,500,000 beginning on the date of its receipt and continuing on against the unearned portion of said $7,500,000 until the total principal and interest is liquidated by the offset dividends.

We wish to point out that it is not technically accurate that the Court of Claims held that the Tlingit-Haida Indians had Indian title to 2.6 million acres.

TANAINA INDIANS

Section 15 provides that the Tyonek Indians may by vote select from among three possible options their future relationship to the Native land claims settlement. We have been advised that there may be some question with respect to the status of the lands mentioned in this section. It will require further investigation to obtain all of the facts relating to this matter and when obtained we will submit our recommendations to the Committee.

REVOCATION OF RESERVATIONS

Section 16 provides that the existing reserves that have been set aside by any means for Native use or administration of their affairs are revoked.

The Department feels that further study is needed relative to the other reserves.

Section 16 leaves unresolved the question of how it will be determined whether the revocation of orders setting aside the various Native reserves would be inconsistent with the legislation. There may be unnecessary confusion as to what orders are continued in effect on that ground.

REVIEW BY CONGRESS

Section 17 provides that the Commission and the Secretary shall submit annual reports to Congress. Ten years after the effective date of the Act the Commission and the Secretary are to submit, through the President, a joint report of the status of the Natives, a summary of actions taken, together with recommendations for the continuation or modification of the Act.

The Department supports this provision. We feel that Congressional review of this program is appropriate and necessary.

APPROPRIATIONS—PUBLICATION—SAVINGS CLAUSE

The last three sections of the bill entitled "Appropriations," "Publication," and "Savings Clause" appear to be standard language and are therefore supported by the Department. As a result of our suggested amendment to section 7(h) covering the funds to be transmitted on the date of incorporation of the corporation and annually thereafter for 19 years, it is our understanding that the Secretary will have authority to do this under the language of section 18 of the bill.

The Department recommends that this bill be amended to provide that it repeals the 1906 Alaska Native Allotment Act and further that as a result of its enactment the 1887 General Allotment Act should no longer apply to Natives of Alaska.

In addition to the above specific comments on the legislation, we have additional comments to make relative to various provisions of the bill which we will provide you at the time we provide legislative language to carry out our other recommendations. Many of these comments are of a technical nature but will need consideration in the development of this legislation. Also, there are a number of places in the bill referring to the payment of "compensation" for claims to the Natives. We believe that the appropriate term is "grants" to avoid the implication of any acknowledgement of the claims by Congress and to avoid potential suit for inadequate compensation.

The Department of the Interior favors legislation along the lines of S. 1830 provided the legislation is amended in accordance with our recommendations contained herein.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

Russell E. Train,
Under Secretary of the Interior.

Department of Agriculture,
Office of the Secretary,
Washington, April 29, 1969.

Hon. Henry M. Jackson,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate.

Dear Mr. Chairman: As you asked, here is our report on S. 1830, a bill "To provide for the settlement of certain land claims of Alaska natives, and for other purposes."

The Department of Agriculture recommends that S. 1830 not be enacted in its present form.

S. 1830 would be cited as the "Alaska Native Claims Settlement Act of 1969". It would declare a Congressional finding that there is an immediate need for a fair and just settlement of all claims by Natives and Native groups of Alaska. The Congressional intent would be to provide this settlement rapidly, with certainty, and in conformity to the real economic and social needs of Alaska

Natives without (1) establishing permanent, racially defined institutions, rights, privileges or obligations, (2) creating a reservation or similar system, and (3) adding to provisions for special Federal treatment of Alaskans and their institutions.

The settlement arrangements of S. 1830 would have several elements. These elements would be regarded as full and final settlement and extinguishment of any and all Native claims against the United States based on certain rights and Acts. The bill would provide for:

(1) land grants to individual Natives;

(2) land grants to communities;

(3) measures by the Federal Government for conservation of subsistence resources and a local subsistence priority on their use;

(4) a $100 million grant to an Alaska Native Development Corporation as compensation for past Federal takings of Native lands;

(5) a further grant to the development corporation of approximately 10 percent of the present value of remaining public domain in Alaska, as compensation for extinguishment by the Act of all remaining aboriginal rights in these lands. This grant would derive from income from leasing and sale of minerals and other resources from Federal lands in Alaska.

S. 1830 would create an Alaska Native Commission to carry out certain functions under the Act. One duty of the Commission would be to prepare a roll of Natives eligible for benefits under the Act. The bill would also establish an Alaska Native Compensation Fund for the benefit of Alaska Natives and Native groups and to receive deposits of funds paid to Natives and Native groups under the provisions of the Act. The Alaska Native Development Corporation established by the Act would carry out a number of functions to provide for economic development and for the health and welfare of the Natives. The Corporation would be subject to the provisions of the Act for ten years.

The provisions of S. 1830 dealing with grants of public lands to Natives and Communities and with management of subsistence resources would directly affect the Department of Agriculture. "Public lands" are defined by the bill as all Federal lands and interests therein in Alaska, except any lands used in connection with the administration of any Federal installation. This definition would include the National Forests in Alaska administered by this Department's Forest Service.

To accomplish the lands grants described above, S. 1830 would provide for certain withdrawals of public lands, surveys, and certain conveyances of lands to Natives, communities, and others.

With one exception the bill would withdraw from all appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, all public lands in Alaska in each township enclosing all or part of certain listed Native villages. The other withdrawals authorized would be those: (1) by the Secretary of the Interior of public lands in townships adjacent to those townships enclosing the listed Native villages and which the Alaska Native Commission certifies as needed by a village for reasonable expansion or certain other purposes; (2) by the Secretary of the Interior, the Secretary of Agriculture, or the Secretary of Defense of any other public lands necessary to settlement of a Native group, to a historic Native village which has been required to move and to which 25 or more adult natives wish to return, or to a place where 25 or more adult natives wish to relocate because of certain occurrences.

Withdrawals by any Secretary would be made only after public hearings and certain certifications by the Alaska Native Commission. Under the bill withdrawn lands would be administered by the Secretary of the Interior pending disposal in accordance with the Act and net revenues from the lands would be deposited in the Alaska Native Compensation Fund. Withdrawn lands not patented or in the process of being patented under the Act within ten years would be returned to pre-withdrawal status.

The Secretary of the Interior would be required to survey withdrawn areas prior to issuance of patents under the Act. The purpose of the surveys would be to locate and define lands occupied as homes, businesses, subsistence camp sites, and for religious, educational, community, governmental, charitable, and other purposes.

After completion of require surveys, the Secretary of the Interior would be authorized to issue patents to the surface of lands within withdrawn areas to individuals and organizations occupying lands at the time of the survey. Overlapping applications would be resolved by the Alaska Native Commission.

Patents would also be authorized to be issued to non-occupants, in accordance with priorities set forth in the bill, on the following bases:

(1) Local governments established under the laws of Alaska could apply for patents for up to 23,040 acres of the surface of public lands within withdrawn areas. Patents to such lands outside a local government's jurisdiction could be issued only after a public hearing.

(2) Natives or Native groups could be issued patents for certain areas of the surface of public lands which they have used for more than three years prior to the Act for harvest of fish, wildlife, berries, fuel, or other products of the land.

(3) Individuals and groups involved in reindeer management could be issued patents of up to 2,560 acres each of the surface of public lands used for such purposes.

(4) Natives 19 years or older, whose primary places of residence are outside withdrawn areas could, within ten years after the date of the Act, be issued patents of not more than 160 acres of the surface of unreserved and unappropriated public lands.

The mineral estate of all the withdrawn lands, the surface estate of which is patented under the bill would be patented to the Alaska Native Development Corporation. The Corporation could lease the mineral estate, but could not sell or transfer it to anyone except the United States or Alaska.

The bill further provides that public lands within the withdrawals not patented could be opened to settlement and occupation by the Secretary of the Interior upon recommendation of the Alaska Native Commission. The surface of such lands could be patented in accordance with regulations, procedures, and criteria established by the Commission.

For ten years after the date of the Act, S. 1830 would provide a means for determination as to whether or not an emergency exists with respect to subsistence biotic resources in the State. After a petition by an individual or the Alaska Department of Fish and Game, and a public hearing, the Secretary of the Interior could declare an area closed to entry for hunting, fishing, or trapping, except by residents. The closing period could not exceed three years unless extended by the Secretary, after public hearing.

A large portion of the "public lands" in Alaska administered by this Department encompass areas in which Tlingit-Haida Indians reside. S. 1830 would authorize the Tlingit-Haidas to vote as to whether or not they shall be included under the provisions of the Act.

S. 1830 also contains other provisions, including those relating to mineral leasing of all public lands in Alaska, the Tanaina Indians, revocation of reservations, appropriations, and publications.

This Department agrees with the overall intent of the bill that there be a timely and equitable settlement of the claims of the Alaskan Native peoples in accordance with the principles set out in subsection 1(b) of the bill and in accordance with sound financial principles and wise land and resource management principles. We are, however, concerned with the potential impacts of S. 1830 upon the National Forests in Alaska, and the following comments are directed to them.

Ten of the towns and villages listed in Section 8 of the bill are within or closely adjacent to National Forests. These villages include some 3,200 people of which approximately 2,800 are of native blood. Populations of natives in these villages vary from some 125 persons in Craig to about 825 in Hoonah. One of the listed villages, Kasaan, is reported to be practically abandoned. The acreage of National Forest land which could be conveyed to these villages and their residents under the provisions of S. 1830 is between 275,000 and 300,000 acres.

Disposal of these lands could have important impacts on the use and management of the National Forests. It appears that the withdrawals would involve at least 4 billion board feet of marketable timber of which about 20 percent is now under sale contract to local wood using industries.

Since the indicated villages are mainly on ocean bays and inlets, and occupy the most accessible and usable land, the alienation of large areas of surrounding lands could seriously complicate access to much additional National Forest timber. These potential grants also would include many miles of salmon streams, numerous lakes and other public recreation areas, miles of beach and existing uses such as residences, roads, reservoirs, and power generating facilities.

On the basis of recommendations by this Department many years ago eliminations from the National Forests of sites of nine of the villages described in the

bill were effected. These eliminations aggregate some 2,400 acres and include the occupied areas and considerable surrounding lands. The purpose of this action was to facilitate disposal of such lands under the public land laws so that they could be more easily transferred to the ownership of the occupants. We do not know the extent to which this has been done. However, the area involved was intended to be adequate to accommodate the residents in these villages and provide for some reasonable expansion. Most of these villages have declined in population since elimination action was taken.

We question whether the large grants for community purposes S. 1830 would provide are necessary for accommodating existing occupants or reasonable potential expansion of these villages. There is also real question whether such grants will in a practical way promote more economic independence of the villages. Much of the land that would be encompassed in the withdrawals and patents is not suitable for occupancy and in most cases is not appropriate for development. Its apparent economic potential to the villages would be for sale or timber removal.

On the other hand, orderly harvesting of National Forest timber under sustained-yield practices and encouragement of increased tourism under National Forest programs could be of significant benefit to the Natives. The Alaskan people will equally share from development of stable, large-scale wood using industry and increased tourist and other recreation businesses in Alaska.

All but one of the native villages within the Alaska National Forests are within the Tongass National Forest. A recent decision by the Court of Claims awarded the Tlingit-Haida people $7.5 million for the extinguishment of "Indian Title" to the land withdrawn as the Tongass National Forest. S. 1830 would leave undisturbed payment of the $7.5 million and, in additional, grant withdrawn National Forest land to these native villages for which the Indians have already been authorized compensation under the Court of Claims award.

For the foregoing reasons the provisions of S. 1830 for grants of lands within National Forests deserve additional serious consideration. It should not be overlooked that National Forests are managed for full utilization of all resources in accordance with good conservation practices and for the benefit of local people as well as the national economy. We suggest that such grants be applicable only to individual occupancies and to land reasonably needed for specific community functions such as are commonly provided by local governmental agencies. If in the future these villages should substantially expand in population, there are provisions in the Alaska Statehood Act and in the public land laws which could provide necessary additional living room.

Subsection 10(d) of the bill provides for patents to Natives or Native groups who have occupied for more than three years prior to the effective date of the Act lands for the harvest of fish, wildlife, berries, fuel or other products of the lands. Such patents would include 5-acre tracts for separate campsites or 40-acre tracts where a number of campsites are grouped. Larger tracts might also be patented where individuals establish, under regulations of the Commission, historic occupancy and use. Within the Alaska National Forests, there are many such campsites which have been used historically by individuals or small groups of Native people. Most of these are individual campsites used for short periods when the people involved are fishing, gathering berries, or hunting. Some of these campsites are covered by special-use permits to the concerned people.

Subsistence use by the Natives is an accepted use of the Alaska National Forests. Since National Forests are reserved from any form of entry, except mineral entry, the possibility of present users being disturbed or evicted from these lands is minimal. This is especially so where the sites have been covered by use permits issued by the Forest Service.

On the other hand, many of these campsites occupy strategic locations from the standpoint of access by other people to the resources of National Forest lands and streams. Patent to such tracts could have an adverse affect on public access. Since the nature of the use is transitory, ownership of these choice sites could gravitate to non-Natives.

This provision is unnecessary in the National Forests because stability of Native use can be assured under applicable special-use regulations. If more definite assurance of continued occupancy by the present Native users is desired provision might be made for issuance to them of nonrevocable and non-transferable occupancy permits.

Subsection 10(i) of the bill would provide that public lands within any of the withdrawals which were not patented to occupants, local governments, or as

campsites or homesites, might be opened to settlement and occupation by the Secretary of the Interior upon recommendation of the Native Commission. Such settlement and occupation and eventual acquisition to title would be open to Natives and non-Natives alike. The value of most such lands would likely be for timber or real estate rather than settlement. Because this particular provision has no relation to the equities of Alaska Native Land Claims, we suggest that serious consideration also be given to elimination of this subsection. Needs of the Native people for occupancy and for community purposes appear to be fully met by prior sections of the bill.

Subsection 8(c) relative to land withdrawals provides that, pending disposition of the lands withdrawn, the Secretary of the Interior is authorized to take such actions as may be necessary to administer, manage and protect the withdrawn lands for the benefit of the Corporation and after deducting cost of administration deposit into the Alaska Native Compensation Fund revenues derived from lease, sale or other disposal of the lands or interests therein and resources thereof. The apparent effect of this provision would be to transfer jurisdiction and management of National Forest lands from the Secretary of Agriculture to the Secretary of the Interior. Another effect would be to decrease the receipts from the National Forests which are presently shared with the state and boroughs. We believe that this provision would unnecessarily complicate administration of the National Forests. It would require a duplicate organization unless the Forest Service were to be designated by the Secretary of th Interior to act for him. In the situation, there would arise questions of authority and of applicability of perhaps contradictory regulations.

This provision is unnecessary insofar as the withdrawals affect lands within National Forests. Necessary protection, management and administration of such withdrawn lands can be continued by the Forest Service subject to the provisions of such law as Congress may enact relative to the Native claims. We therefore suggest that this subsection not be applicable to withdrawals of National Forest lands.

We note that the report of the Department of the Interior proposes further study of and submission of recommendations on the problem of land grants in the National Forests. We will cooperate with the Department in that effort and will submit further views at an early date.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLIFFORD M. HARDIN,
Secretary Agriculture.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C. April 29, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of April 19, 1969, for the views of the Bureau of the Budget on S. 1830, a bill "to provide for the settlement of certain land claims of Alaska natives, and for other purposes."

The Department of the Interior, in its report on this bill, is recommending a number of changes which we support. We are concerned about the revenue-sharing, earmarking, and permanent appropriation provisions in S. 1830, and we support the Department of the Interior's recommendation that those provisions be replaced by an authorization to appropriate a definite amount over a period of years.

It appears to us that the Department's proposal to authorize appropriations totaling $500 million over a period of twenty years, instead of a revenue-sharing arrangement, removes the uncertainty both for the natives and the Federal Government as to the amount granted. This should provide a sounder basis for future planning by the natives. Also, spreading the payments over twenty years will insure that there will be a steady flow of capital into the proposed native corporation at a rate which will give the natives time and opportunity to adjust to the problems and demands of operating such an enterprise. The capital will grow along with the developing business experience and expertise of the natives. Consistent with the foregoing and with the maintenance of equivalent

present value, any reduction in the period of time for making payments should be accompanied by a reduction in the total amount to be granted.

We note that Sec. 12 of S. 1830 provides for competitive leasing of enumerated minerals subject to the Mineral Leasing Act. Competitive leasing would be a major step forward in assuring that the Federal Government obtains a fair market value return when it disposes of minerals. It is particularly important that this authority be enacted before the present "freeze" is ended since without this authority extremely valuable deposits will have to be disposed of non-competitively unless they are determined to be in areas where competitive leasing is legally required.

The Interior Department report stresses the importance of authorizing the disposal of all minerals under the Mineral Leasing Act by competitive bidding, and the Department is reviewing the language of the bill in this regard. We plan to discuss this further with Department representatives when they complete their review and will be prepared to make any appropriate recommendations at that time.

The Department of the Interior also points out in its report that several features of this problem need further study and that further recommendations will be presented to your Committee. We also were not able to explore all the potential problems in depth in the time available to review S. 1830 before the first hearing of the Committee and may have additional recommendations.

Sincerely,

PHILLIP S. HUGHES,
Deputy Director.

(At the time of going to press a report from the Treasury Department was received. It is printed on p. 186.)

The CHAIRMAN. The Chair will now turn to the members of the committee for any statements they care to make.

Senator Allott?

STATEMENT OF HON. GORDON ALLOTT, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator ALLOTT. I am delighted that these hearings have been called early in the year, and I wish to compliment the able chairman for moving with such dispatch.

While several approaches have been advanced to resolve this most difficult and intricate problem, and while these hearings are directed at a particular bill—S. 1830—I think I speak for most of the members of the committee when I say that we have an open mind on what the solution should be. A fair and equitable settlement is what we shall be striving for—one that is fair to the interests of the Alaskan Natives, and which is also fair to the interests of the American taxpayers. Such an effort is bound to involve some controversy, but I am confident that such controversy as may develop will be only matters of good faith disagreement as to ways and means of achieving our common objective—a fair and equitable settlement.

One other aspect of the matter deserves comment at this time. It behooves this committee to insure that whatever settlement is reached, that it is a permanent settlement. We have a golden opportunity to settle this issue once and for all due to the fact that most of the land of Alaska is unencumbered. In fairness to all of the people of Alaska this issue must be set finally at rest, and this is the time to do it.

With this in mind, I look forward to hearing and studying the testimony of the many distinguished witnesses scheduled to appear at these hearings. I know I shall learn much.

The CHAIRMAN. The Chair will now call on the Senators from Alaska for a brief statement before calling the Secretary. First, Senator Gravel, do you have some comments?

STATEMENT OF HON. MIKE GRAVEL, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator GRAVEL. Thank you, Mr. Chairman.

I would like to take this opportunity to thank you, the committee, and the staff for having worked so hard in preparation for this hearing, and on the legislation, and for having negotiated with all the parties to see that the proper representation is here to testify.

In addition, I hope that the committee will avail itself of an opportunity this summer to make a field trip, not to the usual areas of Alaska, but to the bush areas of Alaska, because there is a distinction. I think it would prove wise to see the problems in rural areas first-hand, to see those, that would be most affected by this land claims legislation.

I think the native leadership which now exists in Alaska is in a position to exercise the mature responsibility that this legislation may bring about. I think this is fortunate, because without this mature responsibility, I do not think a final solution can be arrived at.

Finally, I would only like to say that this is the time for Congress to act. I know that under your leadership, the Senate will be acting this year, and I hope the House will act with equal speed. I certainly think that we have an opportunity now to hear all of the views and to accommodate these views into beneficial legislation not only for the natives of Alaska but for all the people of Alaska and the people of the United States.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Gravel.

Senator Stevens, we would be delighted to hear you now.

STATEMENT OF TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator STEVENS. Mr. Chairman, I have a very short statement which I would like to read if I may.

It is my earnest hope that the Congress will act quickly on this legislation that is so vital to Alaska and our people. All Alaskans are indebted to you, Mr. Chairman, for scheduling hearings on this bill. And I personally would like to thank you for your efforts on Alaska's behalf both today and in the past.

Senator Jackson's interest and efforts will add immeasurably to the successful resolution of this land claims dispute.

At this point I would like to make one point clear. I believe all concerned with this legislation have an open mind. We are not wedded to any particular settlement. What we seek is a fair, honorable, and just settlement. And the more generous this settlement is, the better chance our Alaskan native population will have to catch up with our national standard of living.

The most important thing to keep in mind in these hearings in my opinion is that we are dealing with both a legal and a moral problem. The reason that we are here today is because the U.S. Congress has reportedly affirmed an obligation to settle this land claims issue.

One example of this obligation can be seen in the *Tee-Hit-Ton* case. This case is often seen as denying the existence of an Indian claim to a land settlement. On the contrary, in my opinion, the *Tee-Hit-Ton* case

shows very clearly that the legal right and moral obligation of the Congress to redress grievances growing out of the land claims dispute which exists. The majority opinion, delivered by Justice Reed says in very pertinent part, and I quote:

We have carefully examined these statutes and the pertinent legislative history and find nothing to indicate any intention by the Congress to grant to the Indians any permanent rights in the lands of Alaska occupied by them by permission of the Congress. Rather, it clearly appears that what was intended was merely to retain the status quo until further congressional or judicial action was taken. There is no particular form for congressional recognition of Indian right for permanent occupancy. It may be established in a variety of ways. But there must be the definite intention by congressional action or authority to accord legal rights and not merely permissive occupation.

I am not trying to present an indepth legal argument for settlement of the land claims. But I do think the moral and legal obligation of the Congress should be the thrust and basis for this settlement. If we can always keep clearly before us the proposition that the question we are addressing involves redress of a long-standing wrong, as well as the fulfillment of a moral obligation, then I feel we will be a considerable distance along the road to settlement.

Mr. Chairman, at this point I would like to have inserted in the record a copy of the remarks made on S. 1830 on the floor of the Senate after you introduced the bill, as well as a copy of House Joint Resolution 66 of the State legislature. And I would also request your permission to put in the record at this point the names of all the Alaskans who have come down to Washington to appear and be present to answer any questions. Some of them may not testify, but I think we should recognize the fact that they are here today.

Thank you very much.

The Chairman. Without objection, the items referred to will be included in the record at this point.

(The material referred to follows:)

[From the Congressional Record, Apr. 15, 1969]

S. 1830—Introduction of "Alaska Native Land Claims Settlement Act of 1969"

Mr. Jackson. Mr. President, I introduce, for appropriate reference, the "Alaska Native Land Claims Settlement Act of 1969."

The claims of the native people of Alaska to the land and to the resources of Alaska have been a source of conflict between the State of Alaska, the native people of Alaska, and the Federal Government for a number of years. During the 90th Congress the Senate Interior and Insular Affairs Committee held field hearings in Alaska and a hearing in Washington, D.C., on a number of bills on the land claims controversy. As an outgrowth of those hearings, I requested the Federal Field Committee for Development Planning in Alaska to prepare two reports on this problem.

Both of these reports were released February 18, 1969. The first report, "Alaska Natives and the Land," is a heavily documented and thorough 565-page study which brings together all relevant information on the land claims issue, the social and economic condition of the Alaska native, the resources of Alaska and the alternatives which might be followed in arriving at a settlement acceptable to all of the parties involved.

The second report was based on the first and is a proposal recommending the terms for a legislative settlement of the Alaska native land claims controversy.

Following release of these reports, I requested the Department of the Interior to draft a bill which reflected the Federal Field Committee's recommendations for a proposed legislative settlement. The bill introduced today is in large measure the product of the Department's drafting service. It has been reviewed by the

staff of the Federal Field Committee and by members of the Interior Committee staff and a number of minor changes and corrections have been made.

Mr. President, my introduction of this measure does not constitute an endorsement of its provisions. The problems posed by the Alaska native land claims issue are very complex and reasonable men may differ as to how they should be resolved.

By the same token, it is quite clear that this bill as presently drafted is not a finished product. There are a number of provisions in the measure which will require further study, analysis and drafting before they can accomplish what the Field Committee intended. And there is, of course, no assurance that the Congress will adopt the Field Committee's recommendations. The references in the bill to specific acreage figures for land grants; to specific dollar figures; and to specific percentages of the mineral and other resources of Alaska, for example, provide starting places for discusion. They do not, however, constitute final judgments as to what form a final settlement should take.

I am introducing this measure today to insure that the recommendations of the Federal Field Committee on his problem will be placed before the Senate Interior Committee and the Congress for consideration together with any other measures which may be introduced. The recommendations of the Federal Field Committee are based on the most thorough study of the land claims problem that has ever been undertaken, and they require careful consideration.

Introduction of this measure will also provide the administration, the State of Alaska, the native peoples of Alaska and other interested parties a draft bill to comment upon at the forthcoming hearings on this matter.

Hearings on legislation to resolve the Alaska native land claims issue are scheduled for April 29 and 30 at 10 a.m. in room 3110 of the New Senate Office Building.

Mr. President, I ask unanimous consent that the "Alaska Native Land Claims Settlement Act of 1969" be printed at this point in the RECORD.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 1830) to provide for the settlement of certain land claims of Alaska natives, and for other purposes introduced by Mr. JACKSON, for himself and other Senators, was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

HOUSE JOINT RESOLUTION NO.. 66, IN THE LEGISLATURE OF THE STATE OF ALASKA, SIXTH LEGISLATURE, FIRST SESSION

RELATING TO SETTLEMENT OF ALASKA NATIVE LAND CLAIMS

Be it Resolved by the Legislature of the State of Alaska:

Whereas the Alaska Native Land Claims State Settlement Act of 1968 declares the policy of the state "to join with the federal government in a legislative effort to provide a fair, speedy and equitable method for the settlement and satisfaction of the Alaska native claims" and proposes a program of joint federal and state legislative action to settle the land claims and

Whereas the Legislature continues to view settlement of the land claims to be of utmost importance to all Alaskans: Be it

Resolved, That the Legislature respectfully urges federal action to bring about an early and generous Alaska native land claims settlement, which will be inconsonance with the proposals of the Alaska Federation of Natives and the Governor's Task Force on Native Land Claims and will afford due consideration to the recent proposals of the Federal Field Committee for Development Planning in Alaska; and be it further

Resolved, That the Legislature hereby declares its readiness to consider such amendments to the Alaska Native Land Claims State Settlement Act of 1968 and additional legislative steps as may be necessary to implement a Congressional mandate for a native land claims settlement plan.

Copies of this Resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable Spiro T. Agnew, Vice President of the United States; the Honorable Walter J. Hickel, Secretary of the Interior; the Honorable John W. McCormack, Speaker, U.S. House of Representatives; the Honorable Richard B. Russell, President Pro Tempore, U.S. Senate; the

Honorable Henry M. Jackson, U.S. Senator and Chairman, Committee on Interior and Insular Affairs, U.S. Senate; the Honorable Wayne N. Aspinall, U.S. Representative and Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Howard M. Pollock, U.S. Representative, members of the Alaska delegation in Congress.

ALASKAN'S FOR RECORD

Walter J. Hickel, Secretary of the Interior; Hugh Wade, Regional Solicitor, Department of Interior; Joe Fitzgerald, Federal Field Committee; Esther Wannicke, Federal Field Committee; Bob Arnold, Federal Field Committee; Arlon Tussing, Federal Field Committee; David M. Hickok, Federal Field Committee; John Borbridge, Jr., Alaska Federation of Natives; Flore Lekanof, Alaska Federation of Natives; Don Wright, Cook Inlet Native Association; Charles F. Herbert, Alaska Miners Association; Thomas E. Kelly, Alaska Department of Natural Resources; Keith H. Miller, Governor of Alaska; Richard E. Shepherd, Assistant to the Governor of Alaska; Bob Price, Department of Law, State of Alaska; Clifford J. Groh, Various Native Associations, Anchorage, Alaska; Barry W. Jackson, A.F.N. and Tanana Chiefs; Frank Degnan, President, Native Village of Unalakleet, Alaska; Adeline Katongan, Tres., Native Village of Unalakleet, Alaska; Frances Ann Degnan, Member, Native Village of Unalakleet, Alaska.

Laura Bergt, 3 Fairview Drive, Fairbanks, Alaska; Anna Riley, 3rd & Gambell, Apt. 714, Anchorage, Alaska; Showalter J. Smith, Alaska Federation of Natives; Charles Edwardson, Jr., Box 211, Barrow, Alaska; Mary Mohamod, Anchorage, Alaska; T. Wolf, University of Alaska and Bridgeport, Conn.; Eben Hopson, ASNA—AFN, Barrow, Alaska; Harry E. Carter, Kodiak Area Native Assn.—AFN Board; Senator Ray Christiansen, Box 35, Bethel, Alaska; Rep. Carl E. Moses, Unalaska, Alaska; Roger G. Connor, Anchorage, Alaska; Lester W. Miller, Anchorage, Alaska; Robert M. Goldberg, Anchorage, Alaska; Nels A. Anderson, Jr., 531 11th Avenue, Fairbanks, Alaska; Irene Rowan, Haines, Alaska; Miles Brandon, Anchorage and Dillingham, Alaska; Stanley McCutcheon, Anchorage, Alaska; R. W. "Bob" Pavitt, Anchorage, Alaska; Amy W. Paige, Fairbanks, Alaska; Rep. Willie Hensley, Kotzebue, Alaska—AFN; Emil Notti, Anchorage, Alaska; Morris Thompson, Juneau, Alaska.

The CHAIRMAN. Congressman Pollock apparently has been detained. We will hear from Congressman Pollock at a later time during the course of these hearings.

The Chair would like to state, of course, that what we have here is a bill that we asked the Department to draft based on the Federal Field Committee findings and recommendations. The bill is, I think, a good starting point. And it, certainly, has some innovative features that are unique in trying to adjudicate a problem of this kind.

The administration has a statement and reports on this bill. Secretary Hickel is here, and I know that he will explain in some detail the administration's position on the proposal.

We also have governmental representatives from Alaska and others who will comment on the bill. I believe that we should try to make as complete a record as can be made at this hearing. Many natives of Alaska are here today, and they have legal counsel with them. I would expect that at the conclusion of the hearings, the committee will go into executive session and discuss the record that has been made. At a later date, we will call the participants in this matter back for further testimony, presentations, or arguments before we attempt to finally mark up the bill.

I want the witnesses to understand that we hope you will put in the main part of your case now, but we will undoubtedly call you back again before we make a final decision on this matter. Because

this is in many respects a legislative adjudication, we are somewhat modifying our procedures to meet this kind of a situation.

We are delighted to have with us today the Secretary of the Interior. He has been intimately involved with this problem for a long time, both as a citizen of Alaska and as Governor. I know that he has a deep interest in trying to provide a sensible, realistic solution to this problem.

Mr. Secretary, you have a statement and a report from the Bureau of the Budget approved by the President, I believe, that you wish to make at this time. Please go right ahead with your prepared statement.

You have before you a letter which outlines the administration's position on S. 1830 which has been cleared by the Bureau of the Budget, and, of course, the President.

Mr. Secretary, Senator Jordan suggests, and properly so, that you identify the gentlemen with you for the record, so that the record will be complete.

STATEMENT OF HON. WALTER J. HICKEL, SECRETARY OF THE INTERIOR; ACCOMPANIED BY MITCHELL MELICH, SOLICITOR; FRANK A. BRACKEN, LEGISLATIVE COUNSEL; HUGH J. WADE, REGIONAL SOLICITOR; AND HARRISON LOESCH, ASSISTANT SECRETARY FOR PUBLIC LANDS

Secretary HICKEL. On my left, Mr. Chairman, and members of the committee, is our Solicitor, Mr. Melich. Next is Regional Solicitor Hugh J. Wade. Next to him is Assistant Secretary Loesch. And on my right, Legislative Council Frank Bracken.

Mr. Chairman, and members of the Senate Interior and Insular Affairs Committee. I appreciate the opportunity to appear before you today to testify on S. 1830, a bill to provide for the settlement of certain land claims of Alaska natives, and for other purposes.

More than a year ago, I met with some members of this committee in Anchorage, to discuss the issue of native land claims in Alaska. At that time, testifying as the Governor of Alaska, I noted that just over 100 years ago the United States acquired from Russia title to the great land we know as Alaska.

I tried to stress, at that time, that the United States acquired certain moral responsibilities, along with legal responsibilities—regarding the native citizens of what was to later become the 49th State.

The Federal Government recognized this responsibility in the original Treaty of Purchase in 1867; in the Organic Acts of 1894 and 1900, and again in the Statehood Act of 1959.

But recognition is one thing—action and positive results are another. In that regard, I want to extend my own greeting to the many Alaskans who have come so far to testify before you on this legislation. The presence of these witnesses will help insure that we do get some real, positive results.

At the time of my confirmation hearings, the question of native land claims was thoroughly discussed. At that time, I made it clear that I considered it the responsibility of the Secretary of the Interior and the Congress to resolve the native land claims question as quickly as possible.

I stressed that legislation should be developed in a manner which will protect the best interests of all the native citizens of Alaska. With this in mind, I want to compliment the committee for holding these hearings so early in this session of the Congress.

Mr. Chairman, I am sure I express the opinion of the native Alaskans here today when I say—again—that speed is vital in resolving this issue, and if we are to realize that speed, all involved should seek concurrence and agreement on a satisfactory bill.

The bill before you—Senate bill 1830—is based upon the conclusions of the factfinding study carried out by the President's Federal Field Committee for Development Planning in Alaska.

The distinguished chairman of this committee, Senator Jackson, and I—while I served as Governor of Alaska—agreed that such a study was needed in order to provide an accurate analysis of the social and economic problems confronting Alaska's native citizens. The legislation before us today is designed basically to provide solutions to the problems outlined by this study.

Mr. Chairman, the Department of the Interior's detailed legislative report on this bill in general supports this legislation.

The bill generally is intended to implement the guidelines set forth by the field committee's report, which provides the general basis upon which we can solve the native claims issue. However, you will find that the Department's legislative report disagrees, with certain provisions of the bill. And, while you have our detailed report before you, I want to bring out some of these disagreements in my general statement this morning.

For one thing, I do not believe the number of acres of land granted—and the rights therein—to be sufficient for native use as subsistence land.

I would also like to comment on the sections of the bill dealing with the financing and land-grant provisions.

Under section 12 of this bill, the monetary compensation to be received by our natives as consideration for the extinguishment of their aboriginal rights is determined as a royalty percentage of income received for the exploration of certain mineral deposits in the State.

It is my opinion that this type of financing would place on our natives an uncertain element of risk. I submit that this risk could be eliminated by substituting a fixed monetary settlement sum.

I recommend that this section of this bill be amended to provide that Alaska natives receive a fixed sum of $500 million, to be appropriated over a period of 20 years.

Turning now to section 10 of the bill, dealing with the conveyance of certain rights in withdrawn land to individual natives and villages—we recommend that this conveyance include not only the surface rights, as now set forth in Senate bill 1830—but also the rights to all mineral deposits covered under the mining laws.

We further suggest that language be added to the bill which would assure the native landowners—as well as their villages—that any future development of mineral deposits be subject to the mineral leasing laws, and will be conducted in a manner that will not adversely affect the surface landowner.

Consequently, I consider section 10 of the bill to be insufficient. Actually, as the bill is presently written, it would be possible for a native village to receive less land than it now presently uses and occupies.

We should recognize that many Alaska natives still depend upon the land for subsistence to a tremendous degree. And, we do not believe that the 23,040 acres of land provided in the present bill constitutes sufficient protection for the future development of the areas. Consequently, we recommend that this figure be doubled to 46,080 acres—the equivalent of two townships—and that these acres be patented to the villages listed in the bill.

In previous proposed legislation, there has been recognition of the need to protect native hunting and fishing rights. In that regard, I believe the answer lies in granting the surface rights to larger acreages around the villages, in order to give our natives the protection they need for this purpose.

I have with me this morning, Mr. Chairman, members of our staff who are knowledgeable regarding the many technical provisions of this proposed legislation. In addition, as I have noted earlier, you have before you our detailed report on S. 1830. However, before closing my formal statement, so that we can respond to your questions, I would like to repeat an observation I made at the beginning of my comments.

It is vital that the Congress, the Department of the Interior, the State of Alaska, and most important, our natives themselves, express their views here frankly and candidly.

Only through such frank expression will we arrive at a satisfactory bill for all concerned.

I know that the bill before you is the result of many opinions—blending and working for accommodation of all the viewpoints involved. This bill represents a distillation of what once were considered positions that could never be reconciled. And, further compromise may be needed—but if it is, I hope any compromise will be made with the "positive approach" in mind.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Secretary.

I note that on page 3 you indicate that a larger land grant than is provided in the pending bill is desirable. Do you think the land grant should be adjusted depending on the population of the village and other factors?

Secretary HICKEL. I think that is a possibility, Mr. Chairman. We chose the two townships because some areas would take more land per person than other areas. For example, I might say in the southeast it would not require as much land for subsistence as it would on the north slope. But this would have to be worked out in the areas in which they live.

The CHAIRMAN. There has to be some flexibility. I think we could all agree on that. Otherwise the land grant may result in some fundamental inequities.

I wonder if you could comment a little further with reference to the position of the administration on revenue sharing. You mentioned "uncertainty and risk." Would you agree with revenue sharing if it

provided for a minimum grant of $500 million; if that figure were used as a minimum base line?

Secretary HICKEL. Mr. Chairman, I did not hear the last part of your sentence, you said a minimum grant of $500 million?

The CHAIRMAN. Yes. You would use revenue sharing, but there would be a built-in minimum guarantee. The administration position, I take it, is that the administration feels that in a legislative adjudication of this kind there should be a precise amount of money that would represent the settlement: that there should not be an indefinite arrangement by which payments would be made in the future. What I was raising here is the question of whether or not you might as an alternative, provide for a minimum. In other words, a certain amount which would be the guaranteed minimum, and then revenue sharing could be used to bring it beyond that amount.

Secretary HICKEL. Mr. Chairman, I think the administration feels that they do not really know what they would have to spend, and they really would not know how much the native people would receive. They felt that from a prudent standpoint, the Bureau of the Budget, if we had a fixed amount, and they knew exactly what it was going to be, would be a better position. I think, Mr. Chairman, that we would keep an open mind on any ideas that might be brought forth in the way of financing. But it was the basic idea that they would know that $500 million was the amount.

The CHAIRMAN. I just have one other question at this time. We will have an opportunity, of course, to spend more time discussing this matter. It was only today that we have had a chance—and I understood fully what your problem was—to see the Department's report. So it will take a little time to digest some of these matters. But I have one other matter that I want to mention, and then I will turn to my colleagues.

Only through such frank expression will we arrive at a satisfactory bill for all concerned.

The Department of Interior report proposes to grant the Alaska Native Development Corp. $25 million annually for 20 years, as I understand the proposal. Yet the corporation is to become an ordinary business for profit corporation 10 years after its formation. After that time some of its stock will undoubtedly pass to people other than the natives, who are the intended beneficiaries of this legislation. Don't you see some legal and practical problems in the payment of public moneys to a purely private business firm once its special status is terminated? I think this poses a serious problem. Do you or one of your colleagues want to comment on this?

Mr. MELICH. Mr. Chairman, the bill as introduced provides for a 10-year period. Now, it was our thought that if this proposal of a half a billion dollars is included, that period of 10 years could be extended to a 20-year period where those transfers could not be made, if that was the desire of the people, if that is a concern.

The CHAIRMAN. Do you see what I am getting at? Alienation can take place after 10 years, and you would be appropriating money to a beneficiary who is not a native. Can't you see what the Committee on Appropriations would be asking after 10 years: "Where is the money going?"

Now, I think this just points up the need for all of us to study this matter carefully. We have problems here. I think there are a lot of things in the administration's recommendations that will have to be considered and worked out. I raise this question as an illustration, because I think this could cause some real problem in getting the money from the Congress to make the annual payment of $25 million. If it turns out that after 10 years the natives have alienated some of their share, the appropriation would then be going to a beneficiary who is not a native.

This is something that I think you ought to give some thought to, and I hope the Department will do so.

Senator Jordan?

Senator JORDAN. Thank you, Mr. Chairman.

I agree with the chairman, this is principally a listening meeting so far as the committee is concerned. But I do want to be sure that I understand you, Mr. Secretary.

I believe the bill provides for one consideration you did not mention. And that is the grant to a new corporation owned by Alaskan natives of $100 million from the U.S. Treasury as payment for native rights taken in the past.

Now, I did not get from any of your presentation the fact that you considered rights taken in the past, or perhaps you did and I included them in the $500 million. Is that true?

Secretary HICKEL. Yes, Senator, that is included in the $500 million.

Senator JORDAN. Rights taken in the past and to be taken by this legislation are included in the one principal sum of $500 million.

Secretary HICKEL. That is right.

Senator JORDAN. Thank you. That is all I have.

The CHAIRMAN. Senator Gravel?

Senator GRAVEL. Thank you, Mr. Chairman.

Apparently on page 2 of the Interior report there is a disagreement on the definition of a native. The bill encompasses as a native, a person who could be recognized by the native community itself without having any reference to one-fourth blood. The Department disagrees with this. What would be your reasons in this regard?

Secretary HICKEL. I am trying to remember exactly what——

Senator GRAVEL. That would be in section 1. The statement made if the fact that——

Secretary HICKEL. I have got it now, Senator.

Senator GRAVEL. It is far too vague.

Secretary HICKEL. The fact is that where we do feel that the language classifying as a native anyone recognized by a native group as an Alaskan, Eskimo or Aleut is far too vague, and it probably would end up in controversy. And that part of it we felt, was not really apropos to try to define that as a native.

Senator GRAVEL. Could you possibly take into consideration the number of people on the chain who would be disenfranchised, going back several generations but being of Russian extraction or probably one-eighth or more, but certainly having roots in the ground as tenacious as the one-fourth or more blood natives themselves?

Secretary HICKEL. I think we will try to come up with language that will be fair to all of those that are duly entitled to be classified as a native. But I think, Senator, it was our opinion—and we discussed

this one point—that if everyone was a native, that someone just said was a native, there might be 200 million. I do not mean to be facetious, but that was the problem.

Senator GRAVEL. On page 4 you make reference with respect to mineral rights, and you urge that each individual village have the mineral rights as well as the surface rights. The problem there that may be posed is the fact that with the discoveries of subsequent minerals, some villages may become quite wealthy, as in the case of Tyonek, and you may have some villages quite far away that may be quite poor. Don't you think this may create an economic dichotomy in the total community of the State, using this approach rather than the approach used in the bill of mineral rights that would be vested in the total native community?

Secretary HICKEL. Senator, we thought of that. And again we thought that it would not be fair to penalize one village just for the chance that they might be lucky, so to speak, and that they all would have those same rights. And if we are really talking about hard minerals, copper, gold, iron ore—and those possibilities exist all over the country—I think there might be some chance in the vast area so that one village might have more mineral rights than the other. But I think that would just be a normal chance that we would be willing to risk, and I think the natives themselves would.

Senator GRAVEL. Don't you think it might create a disproportionate equity? You say that some may benefit from it. But what about the balance of the natives? Aren't we in a sense impelled by social conscience to create some broad equity for all of the natives in some way? One example of inequity is that the North Shore natives would do much better than the natives of the Bethel area until something is discovered.

Secretary HICKEL. Oil is not included in that.

Senator GRAVEL. Oil would not be included?

Secretary HICKEL. No, just minerals.

Senator GRAVEL. You say it would come under mineral leasing laws. Would this be competitive leases, or would this just be a negotiated lease? What would be the determination?

Secretary HICKEL. Would anyone like to comment on that?

I would imagine that it could be either negotiated, or competitive.

Mr. WADE. I think the reference to the Mineral Act is to identify the minerals that they would get, those that are under the Mineral Act.

The CHAIRMAN. If it is a known geological structure——

Mr. WADE. They do not get gas and oil.

The CHAIRMAN. Excuse me.

Senator GRAVEL. You advocate putting the Commission under the Department of the Interior, and of course the employees of the Commission would be Federal employees. Would this not be defeating the purpose of bringing about a greater participation on the part of the native community itself, creating a certain independence? And in view of the fact that the Commission acts as a quasi-judicial Commission, would it not also erode its objective in relationship to the problems in question?

Secretary HICKEL. I think that is a good point. And we really do not advocate that, we are just suggesting that it requires further study.

I think between the time of these hearings and before the bill is finalized that we will have a conclusion that we will all jointly join in and support—I think that is the general intent of what we are saying.

Senator Gravel. Then I would not hold fast to that recommendation that the Commission be a part of the Interior Department.

Secretary Hickel. We do not recommend that.

Senator Gravel. As I understand it, the Interior report is a recommendation.

Mr. Bracken. Senator, we say on page 36 of our report that we recommend that consideration be given. But we are not recommending that this be accomplished at this point, we are simply saying that consideration should be given—we do not know.

Senator Gravel. What is the motivation for the consideration to be given? We are talking about something that is fairly definable, whether the Commission is controlled by the Federal Government, or whether we have an independent commission.

Mr. Bracken. I think our position is that we can see both sides of this. We certainly can see the point that it might be better off an independent Commission, and we frankly have not had time to take a firm position on this. We are simply saying that we would like to consider this point.

Mr. Melich. Senator, may I comment on that. What we thought was this, that during this 10-year period or 20-year period that we are speaking about when these lands are selected and patented, there has to be some agency that is going to administer this, and naturally that falls within the Department of the Interior. If it is the will of Congress that it should remain there, we certainly would abide by that. But someone has to administor these lands that will go to the natives, because of the selections that will be made, the determination of the land surrounding these villages that they select, as we vision it, this is going to require a rather great responsibility in administration. Now, if we can evolve some way of doing that better than through the Department of the Interior, maybe that is the way it should be done. And that is why we suggested this, and flagged it, so that the committee would be aware of that problem.

Senator Gravel. I could only add that the Senators have some very strong feelings about the amount of involvement of the Federal Government once a solution is reached. I can see the logistic problems involved, Mr. Melich, and certainly would agree that some Federal arm of the Government should be available to lend logistical support. But with respect to policy considerations, I think that we probably have too much Federal Government involvement today. That is the reason I would quarrel with a view toward the continued establishment of the full force in Government, which I think could be represented by having members of the Commission under Federal salary and of course under the complete hand of the Federal Government. I find that a very, very important area for discussion. And certainly I do not disagree with your thoughts to reevaluate it, but I certainly raise the flag. I have some very strong feelings in this regard.

Apparently on page 7, paragraph 2, there is a desire to actually prohibit the alienation of shares absolutely to non-Natives. Could I have the benefit of your thinking in this regard?

Mr. BRACKEN. Our thinking on this regard, Senator, was that—and it goes to the point that the chairman was raising earlier, in extending the payment out for a 20-year period—the bill as drafted did not give the Natives any survivorship interest in their shares of stock. In other words, if a Native died during the 10-year period he loses his interest in his shares of stock. And our feeling on that was that he should be entitled to his shares of stock, and whether he died or survived should not make any difference to his entitlement to the stock itself. But we did, when we took that approach, realize that we might want to limit his right to sell his shares during the 10-year period. And so we simply said here that it may be desirable to prohibit the alienation of the stock either altogether or to a non-native. Now, again we have not firmed up on a position at this point. So we are not saying that we think that he should be prohibited from alienation completely during the 10-years. However, that might be the best approach.

Senator GRAVEL. I see it is a difficult problem. However, I think there might be some inequities involved if a child's parents died within the 10 years, and at the end of the 10-year period that the child would be receiving two shares while the neighbors' child would be receiving only one, if the parents died just before the legislation was enacted. I think we are faced with a cut-off period, in counting heads and just making the shares per head for that period of time. It may be more equitable, I do not know, but I think there are some severe areas on both sides, and probably a more proper way would be just counting heads for a period of time.

What about after the 10-year period. Would you have any objection to the stock becoming negotiable in the normal business sense?

Mr. BRACKEN. Basically no, except for the point the chairman was raising, that it might be well to limit this for an additional 10 years, in view of the fact that the corporation will be receiving an annual payment for an additional 10-year period. I think this is a point well taken, it involves some further thought on our part.

Senator GRAVEL. What about the problems of taxation? Have you taken a real strong position with respect to taxation during the 10-year period, and taxation after; whether the dividends would be subject to Federal income taxes, or whether this would be received just as a replenishment of existing capital?

Mr. BRACKEN. As I understand the language of the bill, it is to the effect that the Native corporation during the 10-year period would not be subject to State or Federal tax on its profit. If you are talking about tax on the dividends paid to the stockholder, the bill did not treat this point, and neither do we.

Senator GRAVEL. Would you have any views?

Mr. BRACKEN. I assume that the stockholder would be subject to ordinary tax on the dividends received from this corporation in the same light as he would be if he received dividends from some other corporate stock which he held.

Senator GRAVEL. Do you have any view toward taxation during the 10-year period?

Mr. BRACKEN. Are you talking about taxation on the stockholder?

Senator GRAVEL. On the corporate tax.

Mr. BRACKEN. On the corporation's profit?

Senator GRAVEL. Right.

Mr. BRACKEN. We have said in our report that we are deferring to the Treasury on this point, and they have some fairly strong feelings on this. And so we are not prepared to take a position on this point right now.

Senator GRAVEL. Will we be receiving communications from the Treasury, or will they be coming through the Interior Department?

The CHAIRMAN. There will be a report directly from Treasury on this.

Mr. MELICH. Of course, Senator, this raises a question as to whether or not this legislation precludes in my opinion the State of Alaska proposing its corporation and individual income tax. I do not know—I am not familiar with Alaska tax statutes, but if this is an Alaska corporation, these are natives of the State of Alaska like you and Senator Stevens and the Secretary here. I think there may be some problems with respect to the Alaska tax laws and the Alaska corporate statute that have to be given some consideration.

Senator GRAVEL. I think we can hear from the Governor on that position later.

In the report here on page 8, item (f), you talk of the activities primarily of a business nature, and cutting down on what would be considered social welfare activities. Would this not be defeating the effort we are trying to achieve, which is to infuse a great deal of wealth into the poverty areas which by and large are native communities. Would not such a restriction of philosophy to very narrow business concerns do harm to the goals we are really trying to get at?

Secretary HICKEL. Senator, I would think that first the normal welfare programs that are in being now from both State and Federal level, would keep on going to the villages that are now receiving them. And we thought there should be an assurance that the corporate entity would not end up as a welfare program, and then take over, for example, the duties of the State and the Federal Government.

The Federal Government and the State have those duties, and we did not think the corporation should assume them.

Senator GRAVEL. I agree, the welfare programs or economic programs or anything of a normal nature will go on in the State of Alaska, and the natives and Caucasians and everybody would be the beneficiaries. But I think the restrictions that you pose here, that these moneys not being used for public projects—or the recommendation——

Secretary HICKEL. Senator, I do not think we say that. We certainly did not mean to if we did.

Mr. BRACKEN. If I may interject, I do not think we have suggested that we limit at all what the bill purports to do as far as the latitude of the corporation's authority is concerned.

We are simply saying that we do not think there should be a substitute, however, for the normal Federal and State welfare programs.

Senator GRAVEL. But you would not be of a mind to shackle in any way the uses to which the moneys could be put?

Mr. BRACKEN. The only comment we have on that is that in the next paragraph in our report we do point out the fact that we feel further study should be given to whether or not the corporation in the State of Alaska can be given this broad authority. And we do not know.

But we would think that an Alaskan corporation might have to

comply with the authority given in the Alaskan corporate statutes, and notwithstanding the fact that the Federal act might say they can do some things that an Alaskan corporation cannot do under Alaskan law.

Senator GRAVEL. I am not an attorney, but I cannot quite visualize, where the corporation wanted to go in and put in a sewer system for the community, that it would be impeded in doing so, or if it wanted to hand out food packages that it would be impeded in doing so. These could be construed as welfare programs, but if they so desired to do it with the profits from their investment I think they should be entitled to do it. Would there be any argument in this regard? I think the issue is one of restricting the uses of the money. If we are going to give the natives of Alaska money and then tell them how they are going to spend this money, I think we are defeating our purpose.

Secretary HICKEL. Senator, this is not our purpose at all. We are not trying to do that. And obviously what we are really trying to do is to help them. And I do not think we are trying to restrict it in any way that would hinder them. That would not be our intent.

Mr. BRACKEN. We are not trying to restrict it. The only thing that went through our minds was that maybe we are stepping fairly close to some of the regulations covering financial institutions here when we talk about doing some of these things, but I am not sure. Where we reach out and get into the financial area we are covered by separate statutes. For example, financial institutions cannot go into the manufacturing business, and this is the thing we are thinking about.

Senator GRAVEL. I think if the natives get involved in the conglomerate problem they are going to have to fend for themselves. But I think that would be a beneficial situation if they did get involved in the conglomerate factor.

Mr. BRACKEN. If the State of Alaska would allow the corporation to do so.

Senator GRAVEL. I would imagine they would expand a portfolio and get counsel, the best they could find in the Nation, to obtain advice as to how to invest their moneys.

Who prepared the list of villages within the bill? I understand the Department performed a drafting service, but who made the selection of the villages?

Mr. WADE. I think it was prepared, Senator Gravel, by the Bureau of Indian Affairs, and the Bureau of Land Management. And I suppose they really went outside of their organization to come up with an accurate list. And I think everybody admits that we may have missed one or two, or maybe more, but hopefully by the time we get the bill in shape we will have the list complete.

Senator GRAVEL. One of the problems that I notice is that some of the villages up there have no inhabitants at all, they are no longer in existence in the conventional sense. To set aside one or two townships, when there is no one there, might create a legal problem for no reason at all which legally entangles the land. So I think this is one area we should zero in on. I believe this provision, allowing 25 or more to come back and reestablish a village, should also be an area of some concern on your side.

In the duplication, or let us say, the doubling of the area quantities you speak of, as I interpret the report, the motivation there is to pro-

vide subsistence, greater areas for the normal pursuits of the native community in subsistence types of economy. Is this the motivation as you understand it for doubling the area?

Secretary HICKEL. Basically that is right, yes.

Senator GRAVEL. From my own knowledge and from what I have read, in some cases one or two townships would not even begin to cover the areas that the natives use for hunting and fishing in the broad expanse. I think certainly Mr. Fitzgerald would be better able to describe what the motivation was or the field committee. But I think as I interpret it, was to provide for community expansion. So it might be in excess—two townships for communities of maybe 200 or 300 people might not be needed for expansion. Yet in some cases, because of the geography in question, they may need that. I wonder what your thoughts would be on developing some flexibility and not getting tied down to a specific quantity of acres, but rather analyzing each village and then trying to apply some scale either more than one township or less than one township, depending upon the situation. It may be more work initially, but I think it may be more germane to the problems in question. What would be your views?

Secretary HICKEL. Senator, we took that into consideration, too. Our recommendation of two townships, 46,080 acres is for the conveyance of title. And then we talked about surface rights, fishing and hunting rights on other lands.

So they would still have surface rights, on other than what they had title to. So in areas like you mention, we know so well—take, for example, the North Slope, they have to roam over much land, and they would have that right, they would have surface rights.

Senator GRAVEL. I think we both realize the difficulty in question. But the point I was trying to get at is, would you be for some flexible formula?

Secretary HICKEL. I think any formula that comes up that would satisfy the situation—the only thing we pinned down was the 46,080 acres as so-called fee simple title. And there again you are going to have to consider population and area, depending on where the village is located. Yes, we are flexible.

The CHAIRMAN. Just one point of clarification. By the way, the Secretary must leave at 11:25 for a White House meeting at 11:45. One point of clarification, if the Senator will yield.

You mentioned "fee simple title" in villages. There is, however your suggested reservation on oil and gas.

Mr. HICKEL. I am sorry, I stand corrected.

The CHAIRMAN. That is something we will talk about later.

Senator GRAVEL. In the interest of time—and I think we can pursue the other questions after the Secretary leaves—I would like to cover one area that I think is very important. With respect to the local government or the corporation involved, there seems to be some question—or at least it is not explained, let us put it that way—as to what an incorporated village would be, would it be a municipality in the conventional sense of Alaskan law, let us say a fourth-class, or third-class city, or would it be a separate Indian corporation, a la Tyonek?

Secretary HICKEL. I think that would have to come under the Alaskan statute whatever it may be. Maybe it is a first-class bureau,

or second-class bureau, or city, I think they would have to determine that.

Senator GRAVEL. Would the Department follow the similar philosophy of trying to create and install local governments instead of isolated corporations of a racial nature?

Secretary HICKEL. Yes; local governments by far.

Senator GRAVEL. I would like to forego any further questions, because I am sure my colleagues also have questions.

The CHAIRMAN. The Secretary will be available later. This is not the end of the questions. It is really the beginning.

Senator GRAVEL. Thank you very much.

The CHAIRMAN. Senator Jordan, you had a question I believe?

Senator JORDAN. I yield to Senator Stevens. I have many questions, but we will get to them.

The CHAIRMAN. Senator Stevens.

Senator STEVENS. I would like to ask just two questions, Mr. Secretary. Following up the questions of Senator Gravel, is it the intent of the report of the Department that during the period, be it 10 or 20 years, that the administrative cost and the personnel needed to complete the settlement beyond the Federal payroll be funneled out of Federal funds so that the settlement fund itself would not be diminished by the costs of the administration of the settlement?

Secretary HICKEL. That is right, Senator.

Senator STEVENS. I think that is very fair. And I appreciate that approach. Could you tell us one other thing. What is the rationale of the 20-year period? I notice that your report suggests and your comments suggest 10 years for the payment.

Secretary HICKEL. We thought it was obviously the best way to solve a difficult situation. And I think that if we cut the payments down we would run the risk of cutting the amount down. And I think if they paid it out, say, in 15 years rather than 20, any reduction in the period of time would logically require the reduction in the amount. And so the administration agreed on the 500 million and the 20 years. And I think that if they came away from that 20 years you would have the problems I mentioned.

Senator STEVENS. You mean from the point of view of the budgetary problem involved that by virtue of using the 20-year period you are able to get concurrence with the $500 million, is that it?

Secretary HICKEL. Well, I think you stated it pretty well, Senator.

Senator STEVENS. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Bellmon?

Senator BELLMON. Mr. Chairman, I have only one question. And I have to begin by admitting that I have a great deal to learn about this problem. But I am vitally interested in it.

From what has been said and from what I read concerning the proposed legislation, the Alaskan native would receive $100 million for the property that has been taken in the past, and $500 million at the time this act is concluded, and what amounts to a 10-percent override in the mineral developments in the future, plus two townships for each village. Is that what you are talking about?

Secretary HICKEL. No, Senator; we are talking about just the townships per village and 500 million for the total, no percentages.

Senator BELLMON. And not $100 million?

Secretary HICKEL. No; we are talking about the total settlement of 500 million over 20 years.

Senator BELLMON. Over a period of 20 years?

Secretary HICKEL. Yes.

Senator BELLMON. And two townships per village?

Secretary HICKEL. Right.

Senator BELLMON. And there was not mentioned 10 percent of the minerals in here some place?

Secretary HICKEL. That is in the bill that was introduced.

Senator BELLMON. What about the oil rights? I guess we are going to get into this in some depth later. Do the natives retain an interest in the oil development?

Secretary HICKEL. In the land that they get title to, they also get the locatable material rights; that is, under two townships. They do not get the oil rights in that land.

Senator BELLMON. Who gets the oil rights?

Secretary HICKEL. The Government retains them.

Senator BELLMON. The Federal Government would have the oil rights?

Secretary HICKEL. The natives do not have any oil rights, but they have locatable mineral rights.

Senator BELLMON. So that when they get the $500 million, that is all the money, and then they have two townships per village, and whatever hard minerals are located there. These hard minerals, then, are owned by the separate villages?

Secretary HICKEL. That is right, Senator.

Senator BELLMON. That is all, Mr. Chairman.

The CHAIRMAN. Senator Allott?

Senator ALLOTT. I have no questions at this time, Mr. Chairman.

The CHAIRMAN. Senator Gravel has another question.

Senator GRAVEL. I think it also goes to the core of the position of the Interior Department. That is the certainty that you are trying to arrive at by seeking direct appropriations to total $500 million, which I think is commendable. I think the original position in S. 1830 is subject to certain vicissitudes of an economic nature, and certainty discoveries. I think the original bill does have one facet, and that is an evaluation of Congress at the end of 10 years to determine whether or not there had been real equity in the amount of wealth received by the natives.

So the question of certainty is covered to some degree, however, not as well as yours. And, I think, Chairman Jackson was trying to point at it to try to get your views. Would there be objection if the legislation did adopt the certainty feature that you propose of $500 million, and yet still retained the revenue-sharing feature so that it might escalate the amount up to a possible billion dollars?

Would there be any objection on the part of the Interior Department?

Secretary HICKEL. Yes; I think, Senator, that the administration would object to it, because they would not have the certainty of how much they would have to pay. I think that is the part that they object to, the uncertainty.

Senator GRAVEL. They would arrive at the certainty, would have a base figure, rather than $100 million by legislation. There would be $500 million appropriated to the natives' scale of 10 years.

We would move it to $500 million to accommodate the Department's wishes, and then for the balance of the $500 million, let that be subject to the vicissitudes of the economic discovery in Alaska and put it on a revenue-sharing basis, other than the—I only say where there is an invasion of possibly 1 percent into the Federal domain of income, and certainly the Budget Department should not have too much objection to that.

Secretary HICKEL. Let me comment on that, Senator Gravel. The Budget Department is pretty strong on some of these things.

Senator GRAVEL. Are they strong on that specific area?

Secretary HICKEL. On that specific area, yes.

Senator GRAVEL. Mr. Chairman, will we receive testimony from the BOB on the facts of this bill? I think it does go to the core of it. The revenue-sharing was a proposal of the Federal field committee, and I think we are altering the philosophy of approach here.

The CHAIRMAN. Certainly the Director of the Bureau of the Budget is available for testimony. He speaks for the President on these matters, and he is the agent for the President in laying down broad administration policy.

The Chair would like to observe that one possible solution would be to let the natives have the oil and gas rights that we were talking about a moment ago; give them fee simple title. This would provide a means in the future of supplementing the corporation's income beyond the legislatively authorized and appropriated grant. The Department has I think, done a good job in coming up with a report that basically follows, with the exceptions indicated, the Fitzgerald proposal; that is S. 1830, the bill before the committee. One of the things I like about the bill, is the emphasis on a monetary settlement, as opposed to a larger land enclave settlement. The last thing that I think we want is tremendous land grants, resulting in large, idle enclaves of land.

I do not think this would be in keeping with the traditions of our country. The natives are entitled to have their day in court and to obtain a legislative adjudication of the matter and I do like the recognition and the emphasis on the part of the Department's report and the field committee's proposal on a monetary resolution of this problem.

Now, there are differences between the bill before us and the Department's report. But I think we have come a long way, and I am very pleased that there is general agreement on the philosophical approach to a solution of this problem. I want to compliment the Secretary and the Department on narrowing the issues. We are in a position now, I believe, to concentrate on these two problems, the land grant and the cash settlement. There is general agreement on these two fundamental principles, and I think this is very helpful.

Now, there are other differences that will obviously have to be worked out. The Department's suggestions in many cases are not mandatory, but permissive. The committee will make an effort to work out a suitable bill that will be acceptable to the Congress, the executive branch, the State and the native people of Alaska.

Senator GRAVEL. I think the long trek taken to arrive at this date is certainly a credit to your leadership. And I do want to echo my statement that I think the Department has worked assiduously, and

I think you have demonstrated some leadership in this regard, Secretary Hickel. However, I cannot help but note the fact that when we think we are putting an end to the adjudication by an act of Congress this year; I can only hope that we are not going to have to fight for 20 years, or fight 20 times for $25 million every single year. I submit that depending upon the stress that the Nation may feel economically in the future, we may have to readjudicate it annually for the next 20 years. This, I think, is a departure from the proposal made by the Federal Field Committee of a revenue-sharing formula which is self-executing, and which of course has certain benefits in that regard.

I would also like to note that the proposal by the Department is not as generous as that of the Federal Field Committee. Of course, the Federal Field Committee did not have to answer to the Budget Bureau, and I think that that is a cross that one has to bear in itself.

But I would like to note that the present worth of the proposal as enunciated in the Department report is about $300 million, and that the worth of the formula built in on their revenue-sharing basis under present worth could approximate $835 million. So I think there is an area here in which there will probably be some adjustment which would have to be worked out. Would you have any comments on that?

Secretary HICKEL. Yes, Senator. I think we felt in the Department, and I think the administration agreed, that in reality the Federal Field Committee bill could result in not as great a settlement, because you have to understand that in order to get this amount of money, $500 million, the State of Alaska would have to receive something like $500 million a year——

Senator GRAVEL. I share your view completely. I am for taking the $500 million and going the rest of the way on revenue sharing.

Secretary HICKEL. It would work both ways. It could be good or it could be bad, but this is why we can arrive at this figure.

Senator GRAVEL. I think the next area of discussion in regard to this is, of course, with the Bureau of the Budget. I would hope that either you could come forward, or certainly one of the Under Secretaries, with a definite statement from the Bureau of the Budget—or, Mr. Chairman, that we would have testimony directly from the Bureau of the Budget; since I think we are talking about dollars and where the dollars are located.

The CHAIRMAN. I think that this problem will be resolved by a series of conferences leading to additional hearings. I think we have to discuss a lot of provisions. It is a complicated problem. I do want to observe, speaking only as chairman, that I do not want an open ended settlement, I want a closed end settlement. I cannot of course as chairman, nor can the Congress, make this matter legislatively res judicata, because you can always come back to Congress and change something. But we can make clear our intent.

It is important that we make clear in whatever we do, whatever this committee agrees upon, that it is a final settlement. I think it would be unfortunate if we had an open ended affair where we could be asked year after year, other than some pure inequity, oversight, error, a mistake to reopen this matter. We should act as a court, and our decision should be final as to a settlement. If we leave the impression that it is open, we will have defeated the very basis on which we are asking

the House and the Senate to approve our recommendations. We do, it seems to me, have an obligation here to make very clear our intent.

Constitutionally we, of course, cannot foreclose future Congresses from making changes. But I think we can make our intent clear. And I am sure that is my colleagues' view.

Mr. Secretary, we want to thank you and your associates for your testimony here this morning. We will be in touch with you when future action is scheduled.

Secretary HICKEL. Mr. Chairman, I have a short statement that I would like to put in for the record. It sort of answers Senator Stevens' questions regarding the cutting down of the payments from 20 years to 10 years.

May I just put this in the record?

The CHAIRMAN. That statement will be included at this point.

(The statement referred to follows:)

It appears to us that our proposal to authorize appropriations totaling $500 million over a period of twenty years, instead of a revenue-sharing arrangement, removes the uncertainty both for the natives and the Federal Government as to the amount granted. This should provide a sounder basis for future planning by the natives. Also, spreading the payments over twenty years will insure that there will be a steady flow of capital into the proposed native corporation at a rate which will give the natives time and opportunity to adjust to the problems and demands of operating such an enterprise. The capital will grow along with the developing business experience and expertise of the natives. Any reduction in the period of time for making payments logically would require, in our view, a reduction in the total amount to be granted due to the need to discount for the increased dollar value to the recipients of completing the payments earlier.

The CHAIRMAN. Our next witness is Justice Arthur Goldberg, who is representing the Alaska Federation of Natives, and with him are representatives of the federation.

I think all of you can come right around the table.

Mr. Justice Goldberg, we are pleased and honored to have you with us this morning. And we are delighted that you are taking this keen interest in seeing to it that the interests of the natives of Alaska are properly represented. I do not know of anyone who could do a better job in seeing that that is carried out. We welcome you to the committee. You have a statement, I believe, and you may go right ahead.

STATEMENT OF ARTHUR J. GOLDBERG, ATTORNEY FOR ALASKA FEDERATION OF NATIVES; ACCOMPANIED BY EMIL NOTTI, PRESIDENT; JOHN BORBRIDGE, FIRST VICE PRESIDENT; EBEN HOBSON, SECOND VICE PRESIDENT; WILLIAM HENSLEY, MEMBER, BOARD OF DIRECTORS; FLORE LEKANOF, MEMBER, BOARD OF DIRECTORS, AND PRESIDENT, THE ALEUT LEAGUE; J. GREENFIELD, OF MR. GOLDBERG'S LAW FIRM; AND EDWARD WEINBERG, OF THOMAS KUCHEL'S LAW FIRM

Mr. GOLDBERG. Mr. Chairman and distinguished Senators, members of the committee, I appreciate very much what the Chairman just had to say. Although I am appearing as private counsel, I and my colleagues look upon this representation as this committee does, as a form of public service. And the arrangements for this representation, when they are concluded will, I believe, reflect this.

Mr. Chairman and members of the committee, as the Chairman has indicated, I am appearing today on behalf of the Alaska Federation of Natives. Representing the federation at this hearing are Emil Notti, president of the federation, who has testified before this committee before; John Borbridge, the first vice president; Senator Eben Hobson, the second vice president; and Flore Lekanof, president of the Aleut League, and a member of the board, and State Legislator William L. Hensley.

I believe most of these men have testified before the committee on several previous occasions.

My colleague, Mr. J. Greenfield of my firm is also here, and Mr. Edward Weinberg, who is associated with Mr. Thomas Kuchel's law firm.

We expect to have an associate with us—we have very frankly sent a letter to the Department of Justice asking clearance to make sure that there is no conflict of interest. And we have done that jointly. And we are going to abide by the decision of the Department of Justice in this regard.

Now, I have been representing the federation for a very brief period of time. And my experience in these matters falls far short of the experience of this committee, which for many years has been protective and concerned about the rights of the Alaska natives, and indeed Indians in the lower 48 States.

At the very outset I want to commend you Mr. Chairman, and the members of this committee, on the very imaginative and unique concept that is being displayed in approaching the problem of the settlement of the claims of the Alaska Indians to their aboriginal title.

This is something new in American jurisprudence, and something new in dealing with claims such as this.

I can say to you from my former experience as a member of the judiciary that judicial techniques have not proved to be too happy in the resolution of claims of this character.

The great lesson we have learned from history is that justice delayed is all too often justice denied. I think that has been very characteristic in handling problems of this character. And the assumption of leadership by the Congress, by this committee, is very welcome. And as I say, it represents a unique and imaginative approach to the settlement of claims.

Furthermore, if I may borrow an expression from one of our greatest American judges, Judge Learned Hand—that is the great lesson, that you do not have to get to the Supreme Court to be one of our greatest judges—Learned Hand once said that if he were a private citizen or representing a private interest, he would dread litigation almost as much as sickness and death. And I think those of us who have been involved in litigation can understand the reason for that statement.

This is not to be critical of courts, it is the nature of the judicial process that it is slow. Sometimes this is a virtue, but when it comes to the settlement of claims long overdue for resolution, it cannot be deemed to be that much of a virtue.

Now, this committee's experience is so broad, and you have conducted so many prior hearings, and are so much more expert than I in these

matters, that I cannot claim that my experience in matters of these types in any way measures up to yours.

Perhaps the best thing I can do in my presentation today would be to give you some of my impressions as I approach this representation, and as I have had the benefit of visits with the gentlemen who are here, their executive board in Alaska, about this problem.

I am sure it is no surprise to this committee that when you meet the people of Alaska and the native people of Alaska the problems of the State and the native peoples make very strong impressions. And if I recite very briefly some of the background which impressed me, I hope you will bear with me, because I know this background is familiar to you.

First of all, as I start to study the history of Alaska and its native people, I am deeply impressed by the type of people the natives are, and the heritage from which they spring. The Alaskan natives came to their nation—it was their nation at the time—thousands of years ago.

By sheer determination and ingenuity they have endured, indeed they have conquered an Arctic semicontinent without the benefit of modern technology, without electricity, or planes, or matches, or modern heating equipment. They survived under conditions which might have destroyed any other group in the world.

And, notwithstanding the staggering effort that it took to eke a likelihood out of the rugged land and to protect themselves against the most inclement weather, they have developed a distinctive and rich culture.

For the most part, the natives, as I have read from various sources, could not have survived by remaining still. The climate and the terrain prevented this. They had to wander. And as they wandered over the land, or where circumstances permitted settled in portions of it, they named every river, lake, valley, and mountain. It was their land; they subsisted from it; it was beautiful, and notwithstanding its harshness, they loved it, as I saw on my recent trip.

I hope, Mr. Chairman and gentlemen of the committee, it will remain so. I think it is their greatest asset, even more than the oil development and the mineral resources, because we have so increasingly, such a diminishing quantity of beauty, natural beauty. And notwithstanding the harshness of the land, they have loved it, and they love it today.

The idea of selling or leaving their land was unthinkable.

I discovered another thing in my short experience with the natives. The Alaska natives, the Eskimos, Indians, and Aleuts are a proud people. And when one thinks of how they have survived and what they have done, they have every reason to be so.

A second strong impression is one I know that this committee has addressed itself to in the hearings, and the Field Committee does in its report. And that is the deep concern with the conditions under which a large majority of these remarkable people now live.

This is not irrelevant to the question of just settlement of their claim. And if I may repeat a few statistics, I hope you, Mr. Chairman, and the members of the committee will bear with me.

We are bombarded, not only here, but elsewhere, with the statistics about poverty and misery. And I remember, of course, very well ap-

pearing here in another reincarnation as Secretary of Labor with concerns about other aspects of poverty in our rich and affluent country.

But I must say that as a newcomer I think in the lower 48 States everyone is affluent compared with the conditions which exist in Alaska.

I should like to just give you a few figures, which are reflected in the Field Commission report.

The average age at death of an Alaska native is 34.3 years, half that of other Americans.

The death rate of natives as a result of influenza and pneumonia is 20 times the rate of Alaskan whites. So it is not the climate alone which is responsible for this condition.

The suicide rate among Alaskan natives is twice that among Alaska whites.

Fifty-two out of 1,000 native Alaskan infants die before reaching their first birthday. The figure for other Alaskan infants, white infants is 22. Among native infants 6 to 11 months old, the death rate is more than 12 times that of white Alaskans.

Out of some 7,500 residential dwellings in native villages, 7,100 or 95 percent need replacement.

A survey of 20 native villages in northwestern Alaska reveals that out of 799 households only 74 drew water from wells. The remainder households acquired their water from unsatisfactory surface sources. It is not too easy to get under Arctic conditions, you cannot melt icebergs with a match or a kerosene lantern.

Flush toilets existed in only two of the villages. There were 18 flush toilets in one of these villages, one in the other, and none in the remaining 18. Only one-fourth of the households has privies, and only half of these were satisfactory from a sanitation standpoint.

Other surveys of 2,014 native households revealed that 77 percent of the homes had no sanitary water supply, or waste disposal. Twenty percent had well water, but no sanitary waste disposal, and only 3 percent had well water and sanitary waste disposal.

The diets of Alaska natives are seriously deficient in several material respects. For example, Alaska natives, according to governmental reports, are taking less than one-half the calories which are medically recommended.

Then going back again to my former concerns, 8½ years ago, more than half of the native work force is jobless most of the year. Joblessness in native villages approaches 80 to 90 percent in the winter. Native per capita income is less than one-fourth of the per capita income of Alaska whites.

Now, the poverty of the natives is aggravated by severe inflation. And we in the country of course are suffering from this great problem. And we are hopeful that the programs which are underway will cope with them. But in Alaska, as I again learned from a personal visit, prices for necessary commodities are from 25 to more than 100 percent higher than prices in the lower 48 States. Prices in the native areas are the highest in Alaska.

Now, all of this is pertinent in the question of resolving with justice and equity the land claims, because those resources not displacing governmental programs, but these resources can be available as a help for the Alaska natives to take their proper place as first-class citizens of our great country.

I turn now to the land problem itself. There was no Alaska land problem until non-natives, primarily Russians and Americans, came to Alaska and moved in.

In 1867 when the Treaty of Cession was signed with Russia, and Seward's Folly, as it was then called—and he ought to be vindicated in history as a result of the new developments in the State—was consummated. The "uncivilized"—that is the way they were described in the treaty—and I put that in quotation marks in my statement, because I have not found that to be so—were made wards of the United States, and the United States assumed a duty to protect the property of its wards. And this duty was explicitly recognized in the Act of 1884, when Congress stated without equivocation that Alaskan natives shall not be disturbed in the possession of any lands actually in their use or occupation or claimed by them.

The Constitution of Alaska also recognized the land rights of the natives, as does the Statehood Act. And having watched that development at the time, I know that it would not be conceivable, this committee would not have agreed, if recognition had not been given to the equity of the natives when the Statehood Act was approved.

The letter provides that Alaska forever disclaim—and I quote—

All right and title to any lands or other property—

Including fishing rights—

or title to which may be held by any Indians, Eskimos or Aleuts . . . or is held by the United States in trust for said Natives. . . .

The very same Statehood Act, however, granted Alaska 103 million acres of Federal land, to be selected by the State. Now, probably it could not be done at that time, but the act made no attempt to resolve the conflict, if there is a conflict between the recognition of aboriginal title and the grant to the State.

However, there had been some administrative development very familiar to this committee.

After the natives have protested any further conveyances, Secretary Udall temporarily stayed all further land transfers. This action, which became known as the "land freeze," was formally continued by the Public Land Order of January 17, 1969, withdrawing all unreserved Federal lands in Alaska from further disposition until December 31, 1970. And in the hearings, as has been mentioned, before this committee, upon the confirmation of Secretary Hickel, and largely due to the constructive intervention of this committee, as well as his own decision, Secretary Hickel, who testified this morning, agreed to keep the order in effect.

Now of course the expiration of the land freeze order at the end of next year makes it urgent that the land problem be solved promptly, and all of us here welcome the statement made by the chairman on behalf of the committee indicating every intention to do so.

Despite statutory, as well as judicial, recognition of aboriginal title, the stark fact is that the native land claims have never been clearly defined or resolved. Until the welcomed hearings of your committee last year, virtually nothing had been done to make that title meaningful. Only a few thousand acres, a fraction of a percent of the State, have been patented to Natives or Native villages. Whenever and wherever there has been any other use for the land—be it a mili-

tary base, a national forest, a mine or an oil well—the Native claims have been almost totally ignored.

Now, even when Native rights to a defined piece of land are explicitly recognized, the judicial or administrative procedure available to the Natives operates so slowly and ineffectively that the declared rights lose much of their meaning. The well-known case of the Tlingit-Haida claims furnishes a good example.

Mr. Borbridge is the president of those tribes.

In 1935, Congress passed an act permitting the Tlingit and Haidas to sue for the value of land which the Federal Government had taken in southeastern Alaska, particularly the land which had been appropriated for the Tongass National Forest in 1907. Because of various court decisions, including the decision of the Supreme Court of the United States in the *Tee-Hit-Ton* case, which Senator Stevens referred to, it was clear that notwithstanding aboriginal title, the Natives had no remedy for a Federal taking unless Congress expressly provided a remedy. And, as a matter of reality, a right without a remedy is not much of a right at all.

In 1968, the Tlingit and Haidas were awarded $7,200,000 for their property, but, because the Natives are so-called "wards," the money is now being held for them by the United States. Thus, today 62 years after the land was taken and 34 years after Congress permitted them to sue, the original owners of the land have not received a penny of it, and are not even able under the leadership they have, the very fine leadership, enlightened, educated, progressive, to use this fund for any type of economic development.

Now, Mr. Chairman, this is not a story which reflects credit on our Nation, or our legal system.

Now, I have given this picture—I have come to the conclusion, and that is that the very best way to give reality to the rights which we have heard now from the Secretary and the statement which I have welcomed, although I must reserve the details of it with the right to communicate—we heard it this morning—what the principles involved are and then subsequently make observations to this committee. But the interesting thing about it is that the administration, as the prior administration does, recognizes that the Natives have substantial rights, and what is being talked about under any light even though this may not be adequate by the natives' light, is a substantial settlement. But it is clear that without effective action by Congress the rights will be meaningless.

Now, I have given a rather somber picture. But my final impression, from my conversations and from my visit to Alaska, is much more positive. In all candor, when I was asked to undertake this representation, I was concerned about a problem which now faces me for the first time. And that is, here we have a large number of villages and a large number of groups. Some have been exploited in the past, dating back to the days of the gold rush. All have a claim arising from their aboriginal title. Some are located where new mineral and oil deposits have been found. And I was concerned as to whether it was possible to unite the Alaskan Natives so that they could really cooperate with the committee and with the administration and with the State in a just and equitable determination of their claims.

That is a matter of great concern to me. And I should like to report to this committee what I found. I found a determination by the Natives to resolve their internal difference so they can act together and re-

sponsibly to secure their rights. And having studied the record, confirmed today by the statement the chairman made, and various members of the committee, and confirmed by the statement that the Secretary made, Secretary Hickel, I also have found a determination by Congress and the executive branch to resolve this problem fairly and now.

It was my privilege to meet with the representatives of Natives in Alaska. The unity which they are now displaying which is essential if the proper agreement is to be concluded, carrying with it, in the words of the Declaration of Independence, the concept of the governed, is what I found in Alaska.

The Alaska Federation of Natives is a new organization. It did not exist until 1966. When I met with their representatives in Anchorage I found that the federation—that there was present at the board meeting the representatives of 22 regional organizations representing 54,000 Indians, Eskimos, and Aleuts—and I should like to read into the record who was there—and all of whom subscribed to a resolution empowering this committee that is here to appear here to present the views, and hopefully to join in an equitable resolution.

I hasten to add that this does not mean that there are not other distinguished Natives here.

Senator Stevens, I think, has put their names in the record. Certainly it is their right to come and join in these hearings from which no one ought to be foreclosed.

If I mispronounce some of the Indian or Eskimo names, you will bear with me. And I am sure my colleagues or the Senator will correct me.

The regional organizations which participated in the meeting in which I participated are these:

ALASKA FEDERATION OF NATIVES

Represents Interests of Alaska's 54,000 Indians, Eskimos and Aleuts.

MEMBER REGIONAL ORGANIZATIONS

1. **Arctic Slope Native Association.**
2. **Aleut League.**
3. **Northwest Alaska Native Association.**
4. **Arctic Native Brotherhood.**
5. **Unalakleet Village.**
6. **Tanana Chiefs.**
7. **Fairbanks Native Association.**
8. **Kuskokwim Valley Native Association.**
9. **Eklutna Village.**
10. **Cook Inlet Native Association.**
12. **Bristol Bay Native Association.**
13. **Alaska Native Brotherhood.**
14. **Central Council, Tlingit, Haida Indians of Alaska.**
15. **Copper River Indian Association.**
16. **Alaska Peninsula Native Association.**
17. **Village Council Presidents Association.**
18. **Kodiak Alaska Native Association.**
19. **Tyonuk Village.**
20. **Kenaitze Native Association.**
21. **Chugach Native Association.**
22. **Kenai Peninsula Native Association.**

These are 22 groupings, regional groupings, representing all of the regions, the far-flung regions of Alaska, which have joined together in the Alaska Federation of Natives in this common determination to achieve a just settlement.

Later in the hearings Mr. Notti, the president of the federation who is here, will give further testimony in this area, and be able to respond to your questions about their association, and any aspect of that that you would like to look into.

Now, Mr. Chairman, I wish we could tell you at this time, Mr. Notti and I, and my colleagues, precisely what the federation's position is. I want to say we are not quite ready for that. In the first place, we have just heard the Secretary's presentation this morning. And in this hearing room his colleagues were kind enough to present me with a copy of their observations, which have been filed with the committee.

And we are rather thoughtful about the bill that was drafted at your request, Mr. Chairman, and the members of the committee also. We do not propose to follow the course of just asking for more for the sake of asking for more. It would not be a very difficult thing to come before you to ask for more than the federation and its constituent elements believes they can get, for *x* dollars and *y* acres and *z* percent of the resources of the land and a corporation which would do this and that over so many years. If we made our demands broad enough, no Native could object. We could encompass every wish of every Native in Alaska in a proposed piece of legislation. But perhaps the gentlemen will remember what I told them in Alaska. All of us draw from our own experience. I have drawn from mine. And I do not think it serves their interests to promise unrealizable things. And therefore I think that the organization has a job to do to soberly analyze what is feasible, and what is practical, to use a colloquialism, what is in the ball park in terms of getting a settlement.

Problems are difficult and immense. And unless all concerned work together in good faith for a practical and fair solution, there may be no solution at all. And a solution is long overdue.

Without subscribing to all the details in the filed Commission's report, or in the bill drafted at the committee's request, based upon the report, I can say this, and I say it for myself, that many of the things there are very imaginative, and they are new. And I would say the same thing about Mr. Hickel's testimony. But it is necessary that they be scrutinized very carefully, and I thought the questions that were asked here today by various members of this committee indicate that there are problems involved, and problems which require resolution.

So it is my proposal, Mr. Chairman, with your permission, and that of the committee, that we now look at the proposals in the bill in the light of the field committee's views and the observations made by the administration, and that we analyze whether the proposals are just, and whether they meet the Natives' real needs. And whether they are feasible, or whether they are realistic, all those things will have to be done.

I hope and expect that within the near future we will be able to come forward with specific answers as to questions which have arisen in this area.

I know that this is the desire of the gentlemen whom I am privileged to be associated with.

I shall give this committee an assurance, based upon my conversations with them extending now over a period of weeks.

Every effort will be made to come forward with a position on behalf of the Natives which will be acceptable to Congress, the Admin-

istration, and the State of Alaska and the Natives themselves. I am optimistic about our chances of success, because I would believe there is basic agreement on certain principles, as I review the testimony last year and as I listened today. And perhaps I can summarize these principles by eight points:

1. The settlement should fully resolve the Native land issue. The problem can no longer be swept under the rug for future Congresses; nor can it be left to interminable litigation.

2. The right of the Natives to subsist on the land through hunting, fishing, trapping, reindeer herding, berry picking, and so forth, should be protected.

3. The Natives should receive fee simple title to an adequate and reasonable amount of land.

4. The amount paid to the Natives should be fair and reasonable, and should reflect the value of the land and its resources.

5. A substantial portion of the settlement should be used to develop the economic resources of the Natives and to make available to them, if they wish it, the full benefits of modern technology.

6. The settlement must make the Natives the masters of their own destiny. They must determine the manner in which the settlement proceeds are to be invested and utilized.

7. The settlement should not in any way deprive the Natives of the other rights and benefits which they have as citizens of the United States and Alaska. Any payments are a settlement for recognized land claims; they are not a substitute for adequate housing, schools, health facilities, or economic opportunities or for the other benefits and services provided by Government on an impartial basis to all.

8. As a result of the settlement, each Native should be in a position to determine whether to continue with the traditional way of life, to join the mainstream of American society, or to find some middle ground. No matter which way of life a Native may choose, the settlement must help to make that way of life a meaningful and satisfying one.

Mr. Notti will go into greater detail as to what some of the components of a satisfactory settlement would be, and as to where certain problem areas lie.

While I am really optimistic, as I have said, I am realistic enough to know how difficult the issues are. The problems only begin when a determination is made as to how much. The next and perhaps equally difficult problem is to determine the form the proceeds should take, and what they should investigate, and what should be done with them. And I assure you, Mr. Chairman, the Native groups will tackle these problems in the light of the pending proposal.

And I would hope that in the very near future to communicate to you precisely what their reaction is. And I would also hope that before long we can present on behalf of the Native groups the beginning of a comprehensive plan for a sound and economic use of the fruits of the settlement.

The Field Commission has made some imaginative proposals in this area, and now, in consultation with the Native groups, I and some colleagues, including some economists, independent economists, are taking a look at this.

Finally, Mr. Chairman, the Natives and I as their counsel wish to resolve the land issue equitably, and in conjunction with all of the interested parties.

And I have to find who they are.

And I have defined who they are: the administration, which represents the Federal Government and the executive branch; the Congress, which is representative of the Federal Government and the people of the United States as the administration is; the State; and the Native peoples themselves. And we pledge to you, sir, and the gentlemen of the committee, all possible cooperation in the effort to achieve justice and equity.

It has been said of our times that one of the great problems, going far beyond this particular issue, is moral indifference. I would like to say that what this committee is doing is a rebuttal of the fact that such moral indifference exists in our country.

I thank you very much, Mr. Chairman.

(Mr. Goldberg made the following letter and proposed contract available for the hearing record:)

LAW OFFICES OF WYMAN, BAUTZER,
FINELL, ROTHMAN & KUCHEL,
Washington, D.C., April 26, 1969.

Hon. WALTER J. HICKEL,
Secretary, Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: As you know, The Alaska Federation of Natives has requested Mr. Justice Goldberg to represent it and the regional associations and native villages and groups for whom the Federation speaks in connection with legislation to settle the native claims. The Justice, through his firm, Paul, Weiss, Goldberg, Rifkind, Wharton and Garrison, is prepared to undertake this representation. Tentative agreement has been reached with the Federation's representatives upon a draft of contract, a copy of which is enclosed for your review, comment and approval.

It is proposed that in entering into the contract, the Federation will act as representative and agent for each native group executing the assent annexed to the contract. This is in order both to assure full compliance with 25 U.S.C. 81 which requires the approval of contracts of this nature by the Secretary of the Interior and to remove any doubt that the Federation in its presentation to the Congress speaks in fact for the individual native groups it is its purpose to represent.

In undertaking this responsibility, while we, of course, hope to be compensated for our services, compensation is itself a secondary consideration. Speaking for Justice Goldberg, as well as for ourselves we regard this matter to be of great public importance and look upon our participaiton as a form of public service. The paramount concern is to see that these claims are settled fairly and honorably and in a manner that does credit to the natives, the United States and the State of Alaska. To that end it will be our purpose to render to the natives the best representation of which we are capable and to eliminate from our relationship with them, insofar as it is possible to do so, an element of our personal involvement in determining compensation. For that reason, it is proposed that in addition to the usual provision as required by the statute, calling for approval of fees by the Secretary of the Interior, fees be arrived at in the first instance by an independent individual or panel in whose selection the Federration would participate but neither the Justice, his firm nor any attorney he may associate with him would have a voice.

Hearings on S. 1830, the "Alaska Native Claims Settlement Act of 1969" will commence April 29 before the Senate Committee on Interior and Insular Affairs. Obviously, there will not be time in the interim either to conclude the formal execution of the contract nor to secure formal assent thereto from native groups. Likewise, your Department requires more time in which to complete its own study of the contract.

Because of weather and travel conditions in Alaska with which you are personally familiar, we anticipate that it may be three to four months before most of the approximately 200 member groups in the Federation will have formally executed their assents. The natives are therefore presented with a most serious practical problem if representation is to await the conclusion of these matters. The Federation, through its board of directors, has made it clear to Justice Goldberg that they wish to speak on a legislative settlement with one voice through counsel specifically selected for that purpose. They will be unable to do so as the Congress initiates its consideration of the very legislation which is of such vital importance to them and which will so drastically affect their future. In order to resolve the dilemma pending final action on the contract. Justice Goldberg is willing and, unless you have objection, proposes to appear for and represent the Federation without awaiting completion of the contracting formalities with the understanding that unless a contract is executed which receives your approval, there will be no obligation incurred on the part of the Federation or any native groups for compensation.

Former Senator Kuchel is a signatory of this letter. This is so because Justice Goldberg, with the approval of the Federation's representatives has requested the Senator and Edward Weinberg, now an associate in his law firm (Wyman, Bautzer, Finell, Rothman and Kuchel) to assist him in connection with the legislative consideration of the native claims.

It should be said at once that Senator Kuchel, his law firm and Mr. Weinberg join in the views expressed earlier in this letter regarding fees and the public service character of their representation of the natives of Alaska.

Mr. Weinberg was, as you know, the Solicitor of the Department of the Interior from early April 1968 to February 24 of this year and for the five years immediately preceding he had been the Department's Deputy Solicitor. For some 19 years prior thereto he had served in various legal capacities in the Department of the Interior, none of which, however, involved claims of Alaska natives.

In view of his past association with the Department of the Interior, Mr. Weinberg deems it essential, and Justice Goldberg as well as the signatories to this letter concur, that his activities within the Department touching upon Alaska native claims be a matter of public record.

As Deputy Solicitor in 1967, Mr. Weinberg participated in conferences with the then Under Secretary of the Department, Charles F. Luce, with Secretary Udall, and with subordinate personnel in the Department and its Bureau of Indian Affairs regarding possible legislative approaches to a resolution of the claims of Alaskan natives.

In May 1967, Mr. Weinberg represented Secretary Udall at a conference in the Department with Edgar Paul Boyke, then Attorney General of Alaska, in which Mr. Boyko protested the so-called "land freeze" imposed by the Department. At that time, the State of Alaska had already brought suit against Mr. Udall (*State of Alaska* v. *Udall*, et al., No. A–21–67. United States District Court, District of Alaska), challenging the validity of the freeze. Native leaders, who supported Secretary Udall's refusal to proceed further with transfer of land out of federal and into state and private ownership pending resolution of the claims issue, also participated in that conference.

At various times in 1968, Mr. Weinberg participated in conferences with Secretary Udall and other departmental people in connection with the formulation of policy with respect to the Department's position on possible native claims legislation and for the guidance of the Secretary's representative in discussions of possible legislative approaches with representatives of the State of Alaska and native leaders. He also reviewed various drafts of legislation on the subject being prepared by the Department's Legislative Counsel who functioned under his general supervision. In addition, the Department's reports to the Department of Justice in connection with the *Alaska* v. *Udall* litigation were prepared by his subordinate attorneys within the Department. He either signed or approved communications with the Department of Justice regarding that case and on one or two occasions he conferred with representatives of that Department regarding it.

Mr. Weinberg advised the Secretary with respect to his authority to issue the public land order of January 17, 1969, withdrawing until December 31, 1970, all unreserved public lands in Alaska. As Solicitor, he reviewed and participated in drafting the order itself and was responsible for its legal form.

Finally, Mr. Weinberg, shortly before he left government service, advised with respect to a particular proposed contract involving Alaska native claims

representation between a particular attorney and a particular village which had been submitted for approval under 25 U.S.C. 81.

We are convinced, as is Mr. Weinberg, that the foregoing activities do not fall within either the letter or the spirit of the conflict of interest statutes applicable to former government officials.

The particular statute in question is 18 U.S.C. 207 (Sec. 1(a) P.L. 87–849; Act of October 23, 1962, 75 Stat. 1123). For that statute to be applicable to representation by a former government official, a number of factors must be present. There must be "a particular matter", "involving a specific party or parties" and the United States must be a party thereto or be directly and substantially interested therein.

In the Attorney General's interpretative memorandum regarding the conflict of interest statutes (28 CFR Chapter I, Appendix, pp. 153–159; 28 F.R. 585, Feb. 1, 1963), it is concluded that the reference to "particular matters involving a specific party or parties" "does not include general rulemaking, the formulation of general policy or standards, or other similar matters." (28 CFR 157).

There can be little doubt that activities involving discussions as to the Department's policy on native claims generally, the formulation of legislative proposals, and the preparation of withdrawal orders are activities in the nature of general rulemaking and the formulation of general policy or standards or other similar matters. It seems equally clear that Mr. Weinberg's role in the litigation with the State of Alaska regarding the "land freeze" does not involve the same particular matter as representation of the Alaska Federation of Natives in connection with legislation. Moreover, in that litigation the United States and the natives have an identity of interst rather than a conflict.

It is significant also that the provisions of the statute in question omit any reference to legislative matters. The descriptive terms employed to specify the nature of the "particular matters" embraced are those which have traditionally connoted judicial relief or agency action; not legislation itself.

Finally, the review of a proposed contract under 25 U.S.C. 81, involves a particular matter separate and distinct from representation of the Alaska natives as a class before Congress.

For these reasons, we have concluded that Mr. Weinberg is not disqualified by 18 U.S.C. 207, from participating in the representation of the Federation and its members in connection with legislation.

We, nevertheless, present this matter for your consideration because Mr. Weinberg's participation will require your approval pursuant to Article 3 of the proposed contract.

In considering it, we should clarify the reference to litigation in article 2 of the proposed contract. That reference is included because of the pendency of *Alaska* v. *Udall* (now *Alaska* v. *Hickel*). We understand that no further proceedings in that litigation are comtemplated while the Congress is considering native claims legislation. However, in the unlikely event that the litigation is revived, it may be desirable for the Federation to seek intervention in support of your position as principal defendant. While such intervention would be in support of, rather than in conflict with, the government's position; nevertheless, to avoid even the hint of a question of conflict, Justice Goldberg's firm will not utilize Mr. Weinberg's services in that litigation.

If, upon your own consideration of this matter, you conclude that Mr. Weinberg's participation is not consistent with 18 U.S.C. 207, he will, of course, immediately withdraw and refrain from further action.

In conclusion, we respectfully request to be advised if you see any objection to representation of the Federation by Paul, Weiss, Goldberg, Rifkind, Wharton and Garrison, and, in association with that firm, Wyman, Bautzer, Finell, Rothman and Kuchel, including Mr. Weinberg, in the interim as above outlined and pending formal aciton on an attorney contract.

Sincerely yours,

PAUL, WEISS, GOLDBERG, RIFKIND,
WHARTON & GARRISON,
By (S) JAY GREENFIELD.
WYMAN, BAUTZER, FINELL,
ROTHMAN & KUCHEL,
By (S) THOMAS H. KUCHEL.

SPECIAL SERVICE CONTRACT

THIS AGREEMENT, made and entered into as of the 15th day of April, 1969, by and between The Alaska Federation of Natives, hereinafter referred to as "Federation", acting by and through its President, for and on its own behalf, and as agent and representative of each native group, assenting hereto as evidenced by its annexed assent and the law firm of Paul, Weiss, Goldberg, Rifkind, Wharton and Garrison, hereinafter referred to as "Attorneys".

WITNESSETH: 1. Federation, pursuant to a resolution of its Board of Directors, a copy of which is attached hereto and made a part hereof, hereby contracts with, retains and employs Attorneys in the matter hereinafter mentioned, pursuant to the provisions of Section 2103 of the Revised Statutes (Section 31, Title 25, United States Code, as amended).

2. It shall be the duty of Attorneys to advise, assist and represent Federation (a) before any and all departments, agencies, committees, and other executive or legislative bodies with respect to legislation to settle any and all claims against the United States based upon aboriginal right, title, use or occupancy of lands in Alaska by any native or native group, pending before, or proposed by introduction in, the Congress of the United States, and (b) in connection with any litigation affecting such claims, Attorneys in the performance of their duties under the contract shall be subject to the supervision and direction of a steering committee selected by Federation's Board of Directors from among the members thereof.

3. Subject to the approval of Federation's Board of Directors and of the Secretary of the Interior, or his authorized representative, Attorneys may employ and associate with them, such other attorneys as they may select to perform, under their direction, such work as may be necessary from time to time, but Federation shall be obliged only to pay compensation provided in Article 5 hereof to Attorneys, it being agreed that compensation of any other attorneys employed pursuant to this Article shall be the sole responsibility of Attorneys.

4. Attorneys are authorized, with the concurrence of Federation's steering committee, to employ such appraisers and other technical, professional (nonlegal), and expert assistants as may be required to carry out their obligations under this Agreement. The cost of hiring such assistants shall be deemed expenses incurred under Article 6 of this Agreement.

5. (a) As partial consideration for services rendered under this Agreement, Attorneys shall receive for the period ending September 30, 1969, and for each three-month period thereafter, a reasonable compensation, taking into consideration both the public service nature of the services performed and the resources available to Federation but such compensation shall not in any event exceed a payment computed on the basis of the usual hourly rates of Attorneys and any other attorneys employed pursuant to Article 3 hereof. Compensation under this subarticle shall be set by a disinterested person selected jointly by Federation and the President of the American Bar Association but if they are unable to agree upon the selection of such a person, compensation shall be set by majority determination of a panel of three disinterested persons, one each to be selected by Federation, the President of the American Bar Association and the President of the American Arbitration Association. The compensation set as hereinabove provided shall, however, be subject to the approval of the Secretary of the Interior.

(b) In the event legislation is enacted which settles and disposes of claims of natives or native groups represented by Federation, attorneys shall be entitled to receive out of any funds available therefor under the terms of such legislation or out of funds available to Federation further compensation which together with compensation paid under subparagraph (a) of this article, is determined to be equitably due in accordance with the standards set forth in Cannons 12 and 13 of the Cannons of Professional Ethics of the American Bar Association, as amended. The determination of compensation under this subparagraph shall be by a disinterested third party or panel of three selected in the manner provided in subarticle (a) of this article, and shall be subject to the approval of the Secretary of the Interior.

(c) Attorneys shall submit to Federation, the disinterested third party or panel and to the Secretary of the Interior an itemized statement of services performed during each compensation period and such other information as may be requested in order to effectuate the provisions of this Article.

6. Attorneys shall be reimbursed for all necessary and proper expenses incurred either by them or by attorneys employed by them as provided in Article 3 hereof,

in connection with the performance of their duties hereunder, including but not limited to travel expenses (including mileage at the rate of twelve cents per mile when a privately owned automobile is used, or twenty cents per air mile when a privately owned aircraft is used) ; long distance telephone and telegraph tolls; taxi fares, notary fees, costs of printing, reproducing and purchasing documents; costs of stenographic services incurred while in travel status; compensation, expenses and other costs of employing appraisers and other technical, professional (non-legal), and expert assistance pursuant to Article 4. Reimbursement shall be made only upon the submission of proper vouchers by Attorneys and approval thereof by Federation and the Secretary of the Interior, or his authorized representative. At the option of Attorneys, any of the fees, expenses or other costs reimbursable under Article 4 upon approval by Federation and the Secretary, or his authorized representative, may be paid by Federation directly to the party to whom such are due, upon submission of proper vouchers through Attorneys, who shall certify that such fees, expenses or other costs were properly incurred and are due and owing.

7. Payment of compensation and reimbursement of expenses under Articles 5, 6 and 12 shall, except as authorized pursuant to subarticle (b) of Article 5, be subject to the availability of funds belonging to Federation.

8. The death, withdrawal or addition of any partner or associate in Attorneys' law firm shall not operate to terminate or otherwise modify this contract. In addition, it is agreed that services rendered on behalf of Federation by any partner or associate in Attorneys' law firm and in any law firm employed pursuant to Article 3 hereof shall constitute services performed by Attorneys in accordance with this contract.

9. No assignment of the obligations of this Agreement, in whole or in part, and no assignment or encumbrance of any interest in the compensation to be paid under this Agreement shall be made without the consent previously obtained of Federation and the Secretary of the Interior, or his authorized representative; any assignment of the obligations of this Agreement or any assignment or encumbrance of any interest in the compensation in violation of the provisions of this paragraph shall operate to terminate this Agreement. In the event of such termination, no person having any interest in the Agreement or in the compensation provided shall be entitled to any compensation whatsoever for any services rendered subsequent to the date of termination.

10. Attorneys shall furnish to Federation and the Secretary of the Interior a written report on the status of all matters on which they have worked under this Agreement at least semiannually, and at such other times as they may be requested by Federation or the Secretary.

11. This Agreement shall continue until April 15, 1972, or until six months following the enactment of the legislation described in Article 2 hereof, whichever is the earlier, and it may be extended for additional periods of two years each upon the written request of Federation and Attorneys with the approval of the Secretary of the Interior, or his authorized representative.

12. This Agreement may be terminated by either party at any time upon 60 days' written notice or by the Secretary of the Interior for cause, after a hearing on reasonable notice. If so terminated, Attorneys shall be entitled to such compensation as the Secretary shall determine to be equitably due. If the Secretary finds that the interests of Federation so require, he may suspend this Agreement and the payment of all compensation due Attorneys hereunder pending a hearing, the holding of which shall not be unreasonably delayed.

In witness whereof, the undersigned parties have set their hands and seals this ______ day of ______________, 196__.

The Alaska Federation of Natives,
By___________________.

Paul, Weiss, Goldberg, Rifkind,
Wharton, & Garrison.
By ___________________.

Approved:

___________________.

Form of Assent

In consideration of the services to be performed by Paul, Weiss, Goldberg, Rifkind, Wharton and Garrison, and any law firms associated therewith, pursuant to the Special Service Contract between Paul, Weiss, Goldberg, Rifkind, Wharton and Garrison, and The Alaska Federation of Natives, dated as of April 15,

1969, copy of which is annexed hereto, the [insert name of native group] assents and agrees to the terms of said annexed Special Service Contract.

[Name of Native Group]
By ____________________.
(Title)

ATTEST:

____________________.

The CHAIRMAN. Mr. Justice Goldberg, I would merely like to say that your statement has been extremely helpful. You have provided a setting here, as the chief legal representative of the federation, to lay the foundation work for a legislative settlement.

Your statement, together with the fine work of the Fitzgerald Committee and the fine statement of the Secretary of the Interior gives us the broad dimensions that are necessary to finding a resolution of the differences—and there are differences, obviously, in all three areas. I am sure that after we have had an opportunity to get more of the definitive points of view, that we can find a solution. I am glad you take the position that the final settlement of this matter be left to the Congress. Certainly there is nothing worse than the experiences in the Indians Claims Commission: that to turn it over to a special commission to adjudicate. The natives will not live long enough, the ones who are now living, to see the fruits of that effort. I have learned this the hard way, as the author of that act, 22 or 23 years ago.

I have no questions, but I do want to commend you.

Senator Allott?

Senator ALLOTT. Thank you, Mr. Chairman. I have no questions either. I am very happy to see the resonable approach which you and the Secretary have taken today.

I can only say one thing. We have all been critical of the Indian Claims Commission. I think we are sometimes prone to forget that it is the Council for the Indian tribes and the Indian tribes themselves who have oftentimes delayed the resolution of that matter. And we are all vitally interested in it. But on this particular point, I can assure you on behalf of the minority, as the distinguished Chairman has repeated oftentimes in hearings of this committee, it is our intent and our purpose to resolve this matter this year, and to resolve it finally as far as the Senate is concerned. We cannot speak for the other body.

Mr. GOLDBERG. Thank you.

The CHAIRMAN. Senator Moss?

Senator MOSS. I do not have any questions, Mr. Chairman. I came in late.

I wish to extend my greetings to Justice Goldberg. And I am delighted he is here. This is a very complex problem that we must tackle. And we do appreciate having your fine counsel and testimony on it. I am sure that the record that has been made will help the committee in discharging its duty. I welcome you to the committee, and I apologize that all committee meetings seem to come on the same day. I have been sort of moving between one and another. You are welcome here.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. Thank you.

I, too, want to add my voice in complimenting Mr. Goldberg—I do not know whether to call him Mr. Justice, Ambassador, or Mr. Secretary.

29-111—69——7

We appreciate the fact that you have taken on this task. I would just like to ask you a general question, and that is, as I understand the administration's position, it endorses a concept of settlement, and it endorses a payment of $500 million, a half a billion dollars, and as I figured out, 10 to 12 million acres of land for the people involved. Fifty-five thousand people, I can consider that a reasonable settlement. And I wondered if you thought we were in the ball park as far as your clients are concerned?

Mr. GOLDBERG. Senator, I think I owe it to the principals involved, who have to make the ultimate decision, to consult with them before I make a definitive answer. I shall say for myself, I think, that the administration's position here today was very constructive.

Senator STEVENS. It is my memory—and I would like to ask the Chairman if we can have the staff do some research on this—it is my memory that this would be probably about a hundred times greater than any tribe or group of tribes ever received from the United States. If my memory is wrong, Mr. Weinberg can correct me. But I do not recall any tribe ever receiving more than $5 million.

Is that right?

Mr. WEINBERG. I am not prepared to challenge that, at this time, Senator Stevens.

Senator STEVENS. I would like to see the comparison so that we can assure the reasonableness of the total Alaskan approach to this settlement, that is my point.

Mr. GOLDBERG. Senator, I hope to come back, with the special observation, I am not trying to avoid answering your question. We heard the testimony for the first time today, which was only appropriate, because the Secretary explained, and I am well familiar with the process, that he happened to submit his proposal to the Bureau of the Budget, and presumably, I do not know all of the arrangements, presumably he is supposed to go to the highest levels of government and therefore we will be very specific in our reaction to it. I have said, and I repeat, that I think all of the proposals that have been made—the Field Commission was very imaginative, the Secretary's proposals are constructive proposals—and now I would like to consult with these men whose interests are involved, and their groups, and come back to the committee with specific observations.

Senator STEVENS. One last comment, Mr. Chairman. It is my understanding that the Bureau of the Budget's position is based upon their traditional opposition to the so-called back-door financing approach, using a percentage of revenues before they get to the Federal Treasury. I am sure that you are familiar with that. Do you feel that the compensation, the term that is involved—would you consult your people about the 20 years. I think that this could be a very interesting proposition, particularly in view of the Secretary's comments that the 500 million was arrived at in view of the time involved, because of budgetary considerations.

Mr. GOLDBERG. I would be very glad to consult with them and report back to this committee.

Mr. STEVENS. I would like to make one statement for the record. And that is that the posters over here are the work of Jane Pender, who is a well-known photographer and newswoman in our State. She

has sent them down here to provide a sort of backdrop for these hearings. She lived in Barrow for some time, and now lives in the Anchorage area. I thought that you would all enjoy seeing these and I thank the Chairman for permitting us to put them up as a background for the hearing.

The CHAIRMAN. I have a question but, first, let me say I was pleased when you came into the picture. I think the benefit will accrue not only to the Natives of Alaska, but to all Alaskans. The prestige of your office and your intelligence and ability will prove itself I am sure in the future months. Do you have a time element in mind as to when we would be ready to give the committee the position of your clients?

Mr. GOLDBERG. I do not have an exact date, but I think we ought to do this promptly. This is a matter which has been the subject of long discussion. There were hearings last year. And I think now we have had before us the proposals of the administration. And just as this committee has addressed itself very promptly to the hearings, and is anxious to conclude its work, I think there is an obligation on the part of the Native groups promptly to respond. And there will be a prompt response.

The CHAIRMAN. Very good, Mr. Justice.

I have one other question. I understand that in order for an attorney to represent the Natives he must secure approval from the Department of the Interior. Has such approval been secured with respect to your own representation?

Mr. GOLDBERG. I have of course submitted to the Department of the Interior a proposal agreed upon by us. The Department wants to review it. And we only submitted it recently, because I did not make a decision to undertake this assignment until just perhaps a week or so ago. In the meantime, the Department has given provisional approval, so that I could appear here today.

The CHAIRMAN. You do not foresee any difficulties in securing this approval, do you?

Mr. GOLDBERG. No, I do not. We are talking about matters which reflect my basic philosophy. And this is a public interest matter, and the contract ought to be determined by the public interest of the matter and not by private concerns.

(Additional statement and letters filed by Mr. Goldberg are printed beginning on p. 180.)

The CHAIRMAN. Very good.

I see it is now 12:15 and we would like to adjourn until 2 o'clock. Prior to that, Mr. Notti, if you have a short statement, it could be entertained now, or you could wait until 2 o'clock when we resume the hearings. What would be your pleasure?

Mr. NOTTI. Mr. Chairman, I think we will delay until 2 o'clock.

The CHAIRMAN. Very good. We will stand in recess until 2 o'clock.

(Whereupon, at 12:15 p.m. the committee recessed, to reconvene at 2 p.m. on the same day.)

AFTERNOON SESSION

Senator GRAVEL (presiding). The hearing is called back to order.

It looks as though Senator Stevens and I are the only folks here for the committee, and of course that means that we will be making the final decisions for ourselves. You can thus be assured that Alaska will be well taken care of.

Senator STEVENS. It does not mean that there is no controversy, does it?

Senator GRAVEL. That could never happen.

Congressman Pollock has been delayed because of a vote in the House.

At this time I would like to invite the Governor of Alaska, Hon. Keith Miller, to take the stand, and any of his aides who would like to sit with him.

We are pleased to entertain your comments, Governor. The floor is yours.

STATEMENT OF HON. KEITH H. MILLER, GOVERNOR OF THE STATE OF ALASKA; ACCOMPANIED BY ROBERT PRICE, ATTORNEY GENERAL'S OFFICE; THOMAS E. KELLY, COMMISSIONER OF NATURAL RESOURCES; AND MORRIS THOMPSON, EXECUTIVE SECRETARY, NORTH COMMISSION

Governor MILLER. Thank you, Mr. Chairman and members of the committee.

First of all I would like to introduce the people who have accompanied me here. On my left is Mr. Price of the Alaska attorney general's office.

On my far right is Mr. Tom Kelly, the commissioner of natural resources for the State of Alaska.

And on my immediate right is Mr. Morris Thompson, who is executive secretary of the North Commission.

My remarks today will be addressed to the bill that is before the committee. The State has not had time yet to review in depth the amendments that were proposed this morning by the Secretary of the Interior. However, it would be my hope that the committee would keep the record open so that the State could present a position on these proposed amendments at a later date.

Senator GRAVEL. The record will be held open awaiting those comments.

Governor MILLER. Thank you, Mr. Chairman.

All Alaskans are grateful for the opportunity which this hearing represents. It is this committee which has twice held hearings, first in Anchorage and then here in Washington, last year. Your concern is appreciated.

This is the first opportunity I have had to appear before you. It is appropriate to point out that my advancement from secretary of state to Governor of Alaska was occasioned by the action of your committee on the confirmation of Secretary of the Interior Hickel.

My testimony today in behalf of the State of Alaska is from my first impressions of Senate bill 1830. My comments will be less detailed than if I had had more time to evaluate its provisions. It was not until last week that I received a copy of the bill. I hope that the committee will be able to hold the record of these hearings open long enough that I may later insert a fuller statement into that record, if such would be of assistance to the committee.

First, I must express the gratitude of our State to the Federal Field Committee for development planning for its work in Alaska. The study entitled "Alaska Natives and the Land" will be a basic document

of factual information on the State and its Native people for many years to come.

There are statistics in the Federal Field Committee study which help to explain our concern for the future of Alaska's Natives. I want to emphasize some of these figures to you.

The Alaska Natives own in fee less than 500 acres of land, although there are an estimated 60,000 Natives in a State with 375 million acres within its boundaries.

The Alaska Native work force of 17,000 has an overall unemployment rate of 50 percent in the winter season, and in northern villages this can reach 100 percent. Nearly 80 percent of welfare in the State for aid to dependent children goes to Natives.

The Alaska Native youth has only slight educational opportunity after the eighth grade in many villages. In 1960 only 8 percent finished school.

The Alaska Native lives on the fringes of a cash economy, perhaps earning only a few hundred dollars in a summer, but prices in the villages are often more than double those in Seattle.

The Alaska Native has housing which is among the most primitive of any group in the United States. It is estimated that of the 7,500 Native houses, 7,100 need replacement.

The Alaska Native lives only half as long as other Americans, which means an average age at death of just over 34 years.

A major part of the solution to these problems is in a Native Land Claims Settlement Act. The State of Alaska recognizes the considerable financial assistance that the Federal Government extends to its Natives, which approached $50 million last year. However, the facts of Native poverty in Alaska are still with us. The fundamental objective of settlement must be to provide economic justice for these native Americans.

The State of Alaska stands ready to cooperate fully with the Federal Government in the resolution of the land claims. I believe that each government has special responsibilities to the Natives of Alaska in this settlement. The State has its obligations because they are Alaskans, and the United States has its obligations because of its traditional role as guardian of Indian interests and because these Natives are American citizens. I am confident that each government will fulfill its responsibilities here.

The State has programs to help the Alaska Natives, which are handled by the separate departments of the State, and not structured into one organization such as the Bureau of Indian Affairs. The State approach has its basis in its responsibility to the Natives as citizens of the State. I will discuss two of these programs so that you may appreciate the State effort in this direction.

The Alaska Department of Labor, in addition to its federally-funded programs, has State-funded programs oriented toward Natives. The State Legislature, in this year's session, funded $300,000 for a Division of Manpower Training, which will train Alaskan Natives for jobs in the new industrial society beginning in rural Alaska. The State Department of Labor also cooperates with the Federal Government in a number of programs related to the Natives. The State Employment Service has already sent a team of interviewers, to Native village on the North Slope to compile skill surveys and contract poten-

tial employees of the oil industry; the same team has made direct contact with industry, in order to promote the hire of Natives.

Our Department of Labor now has a local office in Barrow for the purpose of placing Natives in North Slope jobs. The Barrow office has already secured oil industry jobs for about 100 Native people from Barrow. The State has set up a similar program in the Aleutian Chain for Native employment by the Atomic Energy Commission project at Amchitka.

The Department of Labor has adopted a totally flexible operation in order to place Alaska Natives in industry. It is a first priority for the State which has cut bureaucracy and formalities, and where Federal funds are unavailable, the State has used its own funds to fill the gap.

Another State program concerning Natives involves the village of Minto, and which could serve as a pilot program for village development under the Settlement Act. Minto, a village near Fairbanks, desires to relocate its townsite. The State is ready to assist the people of Minto by making available lands for which the State now has tentative approval by the Secretary of the Interior.

After the incorporation of the village, the State, if Minto so desires, will assist the city in a total land management program designed to insure maximum beneficial use of the land. The results of early development of this program should be available later this year.

There is before the Senate today S. 1830, and I have some observations on that bill.

The State believes that many aspects of S. 1830 deserve serious consideration by the U.S. Congress, and the State endorses the major features of such a bill. The bill presents to the Congress innovations which can lead to a satisfactory settlement of the land claims and to the advancement of the Native people themselves.

I believe, however, that further discussion and study are required so that all parties interested in the settlement may fully evaluate the bill, alternative proposals of the Federal Field Committee not included in the bill, and, of course as I said earlier, the proposed amendments that were discussed this morning by the Secretary of the Interior—and future proposals which might be made by any of the parties to the settlement. I hope we are not far from agreement.

There are some main aspects of the settlement proposal on which I want to comment.

First, the matter of land necessary for future requirements of Native villages must be considered. A generous land grant must be made to the Natives in the settlement. History shows that more acreage is required in Alaska to sustain a way of life than in many other parts of the United States. The Field Committee Study points out that the Alaska Native Allotment Act, which granted Natives the opportunity of 160 acre homesteads produced only 80 allotments, and most of those in southeast Alaska.

The 160 acre grants were modeled for agricultural use in other parts of the United States, and not for subsistence fishing, hunting, and trapping. Parenthetically, I have a personal familiarity with the Alaska homestead situation in my own homesteading experience at Talkeetna, Alaska in 1959.

There is next the question of compensation for what Alaska Natives have lost in the past by extinguishment of Indian title by the United States, and for what they will lose in the Settlement Act.

I again urge Congress to be generous. The claim of Alaskan Natives is unique, and not readily comparable to other Indian settlements. Alaska is a large and potentially wealthy land, and the dollar only goes half as far in Village, Alaska. The State endorses the percentage sharing principle of the bill in that it enables the Alaska Natives to participate in the progress of Alaska.

The State fully supports the dedication of revenues from the Naval Petroleum Reserve No. 4 for the settlement of land claims, and hopes that the Congress will use those revenues for the betterment of Alaska Natives. The State hopes that it will be able to fully endorse each provision of the mineral leasing section of the act, but my department of law has informed me that those provisions diverting revenues granted to the State by the Statehood Act and other Federal legislation may be unconstitutional if made a part of the settlement. It is in the interest of all parties to settlement that we avoid unnecessary litigation which might void certain sections of the bill or delay its benefits.

I am not withholding State participation in settlement by these observations, however. I pledge the State to a commitment which would be the monetary equivalent of those mineral leasing provisions of the bill which divert revenues granted to the State by the Statehood Act and other Federal legislation, upon the understanding that the Federal Government will participate in the settlement in the proportion now set out in the bill. It would not be difficult to draft provisions to accomplish these objectives which will not violate the Statehood Act or the Constitution.

There is next the matter of protection of subsistence rights for Alaska's Natives. The State recognizes the importance of fish and game resources to the native way of life in Alaska, and approves the objective of this provision. However, the State must also recognize that the Statehood Act gave the State jurisdiction over fish and game resources within the State.

The Congress believed that those resources would be best managed by the State. The State presently has regulations which grant subsistence rights to all its residents, and has a traditional policy of respect for those rights. No one knows better than an Alaskan the importance of those rights. The State assures the Congress of its cooperation with the Federal Government in order to insure adequate subsistence resources to its natives, but cannot approve a measure which would in fact return control of any State resources to the Federal Government.

There is, finally, the question of institutions which would be created by the bill to administer settlement. The State supports native autonomy in the belief that each person or group should be able to decide his own future. The Federal paternalism of the past over the lives of Alaska's Natives has not resolved their problems, and there is no reason to believe that continuation of this policy would resolve those problems in the future.

The development corporation set up by the bill could be a satisfactory device for management of revenues granted by the Settlement Act, but the State hopes that settlement will not disregard the regional differences of Native groups within this corporation.

These are my observations on what I believe to be important aspects of a settlement of Alaska Native land claims on the basis of the brief opportunity I have had to acquaint myself with the proposed legislation.

I am grateful for the opportunity today to express the viewpoint of the State of Alaska in this matter.

Thank you.

Senator GRAVEL. Thank you very much, Governor.

I have a few questions that I would like to address to you. Feel free to involve any one of your associates, realizing that they may have more particular information.

You mention a generous land grant. Could you be more specific with respect to the amount of acreage and the form of distribution it may take. What is the thinking of the State in this regard?

Governor MILLER. Mr. Chairman, as I say, we have not had a chance to evaluate fully the proposal made this morning by the Secretary of the Interior. However, I would say that personally I am fairly inclined toward his suggestion on the land portion around the villages. I am saying that again just as a personal observation, and without a chance to delve into it in any great depth.

Senator GRAVEL. May I address to you for further comment the observations I made earlier about setting up a flexible formula, taking into consideration the population of the village and the geographic surroundings, rather than being tied down to one or two townships. The statement made—and I confess I am slightly confused—on page 7, that the State supports the percentage-sharing plan. This is at variance with the proposal made by the Secretary of the Interior. But as I read further, on page 8, am I to interpret your statement as meaning that you feel it is unconstitutional, from advice you have been given by the Attorney General, and in that regard you are prepared to adjust to a direct dollar settlement, which is what the Secretary of the Interior was advocating. Is this the conclusion, or do you feel that the revenue-sharing plan can accommodate the State's position?

Governor MILLER. Mr. Chairman, as I pointed out in the beginning, I was addressing my remarks to the bill that is before the committee. Also on page 8, that has to do with the mineral leasing section of the act as far as the possible unconstitutionality.

This has merely been a suggestion.

Senator GRAVEL. Does this involve oil and gas minerals?

Governor MILLER. I believe I can bounce this off to Mr. Price.

Senator GRAVEL. Let me repeat the question. I take the statement at face value. The State has no objection to a revenue-sharing plan. Would that be an accurate interpretation of your statement?

Governor MILLER. Mr. Chairman, this is correct, as our testimony applies to the bill that is before this committee.

Senator GRAVEL. Governor, I sure want to compliment you, because I think that since the State is the one that has been encroached upon the most in its sharing plan. This certainly could be used as a club against the Bureau of the Budget, since they are only nicked, by 1 percent while the State is nicked by 9 percent.

Governor MILLER. Mr. Chairman, I hope this convinces the committee of the sincerity of the State for the settlement of these claims.

Senator GRAVEL. There is no question in my mind, Governor. And I can only compliment you in taking this very aggressive position.

Now, with respect to the mineral leasing, here you feel that the State should have a say-so as to any leasing that would transpire?

Governor MILLER. I will ask Mr. Price to answer the question.

The CHAIRMAN. Mr. Price, do you have a copy of the Governor's statement?

Mr. PRICE. Yes, I do.

The CHAIRMAN. On page 8, in the middle of the page, it says, "I am not withholding state participation in settlement by these observations, however"—this deals with apparently the mineral leasing sections of the act.

Mr. PRICE. Yes, Senator. The objection that the Department of Law is that under the present draft of the bill it appeared to us—and especially to me—that provisions which diverted the 90–10 mineral leasing provisions which are guaranteed to the State by the Statehood Act may be unconstitutional—and I use the word "may." I did not have a full opportunity to spend adequate time in order to evaluate these provisions. However, I believe that the statement of the Governor indicates that the State would be able to support a bill which would be drafted in a different manner than it is at the present time. We are in substantial agreement with the principle.

Senator GRAVEL. Albeit the reservation is here from a legal point of view, I think the Governor has made his objection quite clear that he does accept the revenue-sharing concepts involved.

Have you done any research as to what would be the ramifications of voiding taxation for the intial 10 years? It is recommended in S. 1830 that the Federal Government forgo any taxation on the corporation, would the State be in a similar position? I can appreciate you may have to go to the legislature on this—but I think the administration would have a very strong voice—Governor, what would be your views with respect to the taxation problem?

Governor MILLER. Senator, I think we would probably have to look at this particular aspect of the bill in a little more depth than we have had a chance to do. We have not addressed ourselves to that particular portion in our testimony today. And again we would like at a future date to be able to inject further testimony into the record on this subject, if we may.

Senator GRAVEL. The other point—and I think it is a valid one—that we raise is the desire to retain management of our own resources with respect to fish and game. As I recall, in the bill reference is made to subsistence, the qualification being that if there was an insufficient resource to provide subsistence, then the area in question would be closed, closed so that the Natives would enjoy at least a subsistence-type return from the land. This could be cranked into a formula if it were acceptable to the State. What would be your views? You raised the problem, and rightly so. The question that I am asking is, would you use your good offices to work toward a written solution that could be placed into the legislation?

Governor MILLER. We would certainly offer all cooperation that we possibly can to resolve this particular problem or disagreement between the State and the bill.

Senator GRAVEL. You undoubtedly have done some thinking with respect to utilization of Pet 4. Would you give me your views as to how you think this should be realized and totally implemented into land claim settlement? Does the State have any desire to have it funded into its 90–10 formula and then a percentage of that funded? Are you in variance of the field committee report on this?

Governor MILLER. Yes, our testimony had to do with the entire Pet 4. However, I might bounce that question over to our Commissioner of Natural Resources, Mr. Kelly, with your permission.

Senator GRAVEL. Please.

Mr. KELLY. With respect to Naval Petroleum Reserve No. 4, I think that the Federal field committee's suggestion that the revenues be apportioned in, I believe it was, a ratio of 45–45–10—a very imaginative concept, it is certainly one that has not shown itself in previous testimony last year. So far as our conversations with the Governor, we feel that undoubtedly the transfer should be made from the Department of the Interior, for either sale by competitive bid or leasing of these lands in accordance with the provisions of the Mineral Leasing Act.

At the present time, as you know, it is held in the Department of Defense. I do not think that to move from this position by some sort of a farmout from the Navy is the appropriate approach to the matter. But we have generally conceded that this might be an area if there was the adoption of the revenue-sharing concept to provide a substantial amount of settlement under the Native Land Claims issues, and at the same time not jeopardize or in any way infringe upon the provisions as far as the 90–10 settlement or 90–10 distribution of other lands.

Senator GRAVEL. Thank you, Mr. Kelly.

What would the State's advice be with respect to village sites, be they townships as one or two in number, of extracting some village site lands from already State-selected lands? Invasions of other preserves of the Federal Government, to satisfy certain needs, be they in southeastern Alaska, in the forest area, or in wildlife preservation one so contemplated. Would this be a possibility?

Mr. KELLY. Mr. Chairman, I think, as indicated, the so-called pilot move was recently instigated between the State and the village of Minott, wherein it was suggested that the State would make these lands available for the relocation into a more suitable area for the expansion of this city, which we had at that time indicated, because the vehicle has to be in nature or some sort of political subdivision, foreseeably a fourth-class city in the instance of Minto

I think this shows a splendid cooperation and desire to solve the the problem in the communities as we would with the boroughs. Under the mandatory borough Act we would be able to select 10 percent of the unappropriated lands, and I think there would be no basic difference in the treatment of villages as compared to boroughs in this regard. Of course, in southeastern Alaska it is a different matter, being totally almost within the realm of the Department of Agriculture in the Tongas National Forest, for which the State, if it reaches its entitlement of 400,000 acres, which certainly is not a large grant of land itself—I do think this may be a different matter and should be approached differently, different any way from general grant land.

Senator GRAVEL. Very well. But we can accept it as a statement of policy that the State would move in this direction of cooperation and interpret it that way?

Mr. KELLY. Yes, sir.

Senator GRAVEL. Can a corporation—and this may be addressed to Mr. Price—can a corporation as envisioned in 1830, can this be locally constituted in the State of Alaska under our existing law?

Mr. PRICE. Yes, I think it would be. Under the State Mature Claims Act of last year, there is provision for incorporation of either a Native village or statewide corporation, whatever would be the ultimate result in the bill. We have in the State of Alaska a basic corporation law which is based on uniform corporation law, and there would be no problem.

Senator GRAVEL. To your knowledge, just as an appendage to the point raised this morning, would the corporation when constituted have any difficulty in disposing of the money that it might have as it sees fit, be it for social welfare programs or be it for economic development programs? Do you think that there would be any provision in State law that would impinge upon the utilization of the funds that this corporation might have?

Mr. PRICE. I would defer on that at the present time. I believe that it would really take further research, Senator, I am sorry.

Senator GRAVEL. The other point—and probably it is premature to ask the question, and I know that you have not had a chance to probably think it through—but I would solicit your comments on the proposal made by the Secretary of the Interior with respect to a grant of $500 million, and also the retention of the mineral rights, nonoil and gas, and the two townships per community. Would you just give me your general views on that entire proposal.

Governor MILLER. Mr. Chairman, in no way do I wish to convey the impression that the State of Alaska opposes the proposals that were made by the Secretary of the Interior. We merely would like a little more time to fully digest and absorb the context of the proposals that were made this morning. And other than that, I do not think we really could make a statement at this time until we have had a chance to study it further.

Senator GRAVEL. I can appreciate your position, Governor. And again I just want to underline my comments earlier of the aggressive position you have taken on the revenue sharing.

Senator Stevens, do you have any questions?

Senator STEVENS. I really do not have any questions. I want to commend the Governor on his approach.

Perhaps I would ask this question. As I understand it the reservation that you have is with regard to the constitutionality of the dedication funds: is that correct?

Governor MILLER. Yes, that is correct.

Senator STEVENS. Should the Congress in its wisdom determine that it will dedicate a portion of the Federal funds, this could be followed, the pattern could be followed through the State legislature?

Mr. PRICE. I believe that it would be possible, Senator. However, we do have problems with revenue sharing in the State of Alaska, because certain aspects of revenue sharing are prohibited by the State constitu-

tion. However, it would be possible, I understand, to dedicate royalties. This is a State problem.

Senator STEVENS. You are referring on the constitutional provision against dedicating revenue prior to their receipt?

Mr. PRICE. Yes, and dedicating revenues derived from licenses and from taxes. However, I do believe that it may be able to accomplish this by Federal legislation.

Senator STEVENS. I would urge you to maintain your position, because I would not want to see the Statehood Act amended in any way by this legislation. And I feel that we have enough battles coming in that area without getting that battle involved in the Native claims legislation. And it is my opinion that the Federal Government can dedicate its revenues and the States can dedicate its revenues without amending the Statehood Act or without violating the Constitution. And I would urge you to explore it from that point of view, of not opposing the revenue-sharing concept. I think I agree with the Government on this matter.

But on the other hand, I would not like to see this bill become a vehicle for amending our Statehood Act, because I feel it needs the consent of the people of Alaska to do that. And I would not want to get that involved in this issue.

I do commend you, though, Governor, on what I think is a very forthright statement. I believe that your presentation here this afternoon, and our former Governor's this morning, reflect the dedicated spirit that we all have as far as settlement of these claims as quickly as possible is concerned, it will be very helpful to the Congress and particularly this committee to review your testimony.

Thank you.

Senator GRAVEL. Thank you, Governor.

Congressman Pollock, it is with great pleasure that we welcome you to this august side of the Capitol. We hope that you would not be interrupted by any vote of import on the House side. And certainly you have the floor, and we will listen intently to your remarks.

STATEMENT OF HON. HOWARD W. POLLOCK, A U.S. REPRESENTATIVE AT LARGE FROM THE STATE OF ALASKA

Representative POLLOCK. Thank you, Mr. Chairman, and members of the committee.

It is my privilege to appear before your committee today as the lone Congressman for Alaska to give general support and endorsement to your S. 1830. I have introduced similar legislation in the House, H.R. 10193.

While I do not intend to address my brief remarks to specific areas of the bill for purposes of amendment, I do wish to convey to the distinguished members of this committee my strong feelings that there is a moral obligation on the part of the Congress to fully and finally resolve this matter of Alaska native title to lands.

A legal-judicial approach to the resolution of this matter would be tenuous, extremely expensive and would unquestionably continue for many years, with an ultimate resolution unsatisfactory to anyone.

Accordingly, with Congress having reserved the right for more than a century to resolve the issue of native interests in land, I com-

mend this committee for boldly facing the task now before it, for having the courage to come to grips with the difficult matter, and for its determination now to bring about a speedy resolution.

For far too long the Congress has failed to act in this matter which is of vital importance to all of the people of Alaska. But this matter has far broader implications than to Alaska alone. A just and speedy resolution of the land claims issue is equally important to the Nation as a whole.

We cannot deny that the history of the treatment meted out to the American Indian by the white man makes for bleak and bitter reading. As white civilization swept westward across the continent, it brought with it pressures for land and yet more land for farms and ranches, railroads, towns and mines. This collision of interests in the use of the land saw the hunting Indian and the harvesting Indian pushed farther and farther away from those lands that had provided his livelihood.

Similar pressures for land are beginning to develop in Alaska. But excepting for some areas such as the north slope with the immediate impact of its oil development, there is not the dreadful immediacy that forces a hasty resolution, right or wrong, at one precise moment in history.

Congress still has the opportunity to work out the Alaska native land claims issue on the basis of justice and reason.

The urgency exists, but we must take enough precious time to achieve a full, fair and final resolution of this complex issue. What I am saying, Mr. Chairman, is that I would hate so see us rush into something that would not be well thought out. I am delighted that both the House and the Senate are now addressing their attention to this matter and to the resolution of this matter, and I would hope that there will be a full and final and fair resolution of the native land claims issue in the 91st Congress.

Indeed, the resolution of the land claims in Alaska may provide the philosophy and framework for a nationwide Indian policy of equality, opportunity and self-government, reflecting that dynamic, qualified and capable leadership that can happily replace the unsatisfactory semipaternalism that has existed throughout our national history.

Alaska's native people—53, 55, 60,000 citizens of the State—are asking that they be given title to their lands. It is not enough that they be allowed to "use and occupy" these lands as in the past, for these rights may too often be swept aside under pressures of what at the moment may appear to be a higher and better use.

For example we have moose wandering and oil wells rising where the now landless and poverty-stricken Kenaitzi once made their home. The Eklutna people have seen the lands they regarded as their own whittled down from 328,000 acres until they now use and occupy—notice I say "use and occupy" and now "own"—less than 2,000 acres.

Granted, these people had the misfortune to live in what has now become the population center of Alaska. But I do not want to see these sorry situations repeated, and I am not sure that you agree with me.

The pressures that broke the Eklutna and the Kenaitzi are being felt on the north slope where modern day hunters for oil and gas are ranging the traditional hunting grounds of the north slope Eskimos.

There are other pressures as well.

In granting statehood to Alaska, Congress gave the new government as its patrimony the right to select 103,350,000 acres of Federal land within its boundaries. The State is required to complete its land selection in the 25-year period following the achievement of statehood.

But Alaska's land selection program has been brought to a halt by the land freeze. This freeze was initiated by the former Secretary of the Interior, Stewart Udall, to protect the interests of Alaska's native people in the lands they claim, and was continued in force by Secretary of Interior Walter Hickel.

Meanwhile, the years wear away. Until the native land claims are resolved, the State of Alaska is prevented from selecting those lands it needs. I feel the time for selection under the statehood enabling legislation must be extended and accordingly I have introduced legislation for this purpose.

Although its future may appear bright, Alaska is not now a wealthy State. The revenues that would derive from the State selected lands are needed now for the State to operate and to provide those basic services required of all governments.

Alaska's Native people face an uncertain future while their land claims remain unresolved. In their transition from a subsistence to a money economy, the Native people are falling behind in the race for a satisfactory life.

I need not repeat the sorry statistics on life expectancy, education, income, and unemployment. You gentlemen are quite familiar with them.

Suffice it to say that the cold statistical figures add up to a frightful toll of human misery.

Your S. 1830 in the Senate and my H.R. 10193 in the House provide for financially compensating the Native people of Alaska for those lands taken from them. I am hopeful that this compensation will be generous. In addition, there will be grants of land circumscribing each of the villages. I anticipate that this committee and its counterpart in the House will extensively deliberate on the amounts of land and money that it feels rightly should go to Alaska's Native people. Many proposals for the mix of money and land will be presented and reviewed.

But, Mr. Chairman, if I can say one important thing today it is this.

Let us not talk the matter to death nor create any unnecessary problems on specifics which may overshadow the greater objective of adequate resolution of this important and timely matter. I feel the bills before the Senate and House are a framework upon which the committees and the Congress can build the final resolution to this complex problem.

The Congress has historically reserved to itself the right to resolve the question of the Alaskan Native and his land. Let us exercise this right—and responsibility—expeditiously, with determination and with justice.

All Alaska looks to the Congress to correct the untenable and paralyzing position in which it finds itself at this critical time in its history.

Thank you for this opportunity to participate in these Senate hearings. I wish you Godspeed and wisdom in your deliberations. Thank you very much.

Senator GRAVEL. Thank you Congressman Pollock. All I can add is that I hope the House will handle it in a similar manner.

Representative POLLOCK. Mr. Chairman, I am most hopeful that we will in the House conduct hearings in Alaska. And I think that they will be this summer in, probably, July. I am hopeful that it will be at that time. They are yet to be precisely scheduled. But it is our hope and our wish, as it is yours, that this matter be fully and finally and fairly resolved in the 91st Congress.

Senator GRAVEL. I am certainly positive that if anybody can prod the House into action it will be you. I know you have worked assiduously on this problem, and I commend you for it. I know the work will pay dividends.

I see my colleague is not here. I have no questions of you, Congressman.

Representative POLLOCK. Thank you very much, Mr. Chairman.

Senator GRAVEL. Thank you.

At this time I would also like to enter in the record a statement made by John Borbridge, entitled "Alaska Native Land Rights." It was a statement made on March 19, 1969. I would like it to appear in the record, since I feel that it very graphically portrays a definition of the problem that I have not seen equaled in any other writing.

(The document referred to follows:)

"ALASKA NATIVE LAND RIGHTS"

(Speech Highlights and Background Facts)

(PRESENTATION OF JOHN BORBRIDGE, JR., BEFORE THE ANCHORAGE PRESS CLUB, MARCH 19, 1969)

THE NATURE OF OUR CLAIMS

1. The Natives of Alaska (Eskimos, Indians and Aleuts), who are estimated to number approximately 54,000, today use and occupy extensive areas in Alaska for hunting, trapping, fishing and other purposes. These are the same lands which they used and occupied for many centuries prior to the coming of the first Europeans.

2. Today, the descendents of these Native groups still continue to hold, by "rights of aboriginal occupancy," the great bulk of the same territory.

3. Today, Alaska, the last great frontier and wilderness region of our nation, is the sole remaining part of the United States which includes extensive areas still used and claimed by the indigenous inhabitants, based on *rights of aboriginal occupancy*. Except for these large areas in Alaska, the Indian or Native title to lands of our nation has, over the years, been acquired by the Federal Government.

4. As repeatedly held by the Supreme Court of the United States, aboriginal Indian title to lands embraces the *complete beneficial ownership based on the right of perpetual and exclusive use and occupancy*. Such title also carries with it the *right* of the tribe or native group *to be protected fully by the United States in such exclusive occupancy against any interference or conflicting use or taking by all others, including protection against the state governments*. In short, as declared by the Supreme Court, aboriginal Indian ownership is as sacred as the white man's ownership.

THE STRENGTH OF OUR CLAIMS

5. The established law is that *only* the United States may extinguish aboriginal Indian ownership. It is true that, during times of emergency or stress in periods of our earlier history or through unfortunate mistakes, the United States, on occasion, did extinguish or appropriate Indian title lands in the absence of the consent of the tribal occupants and without paying any compensation. However, the Congress of the United States recognized the serious injustice of these uncompensated takings of Indian title lands and adopted remedial measures. First, by a series of special Jurisdictional Acts pertaining to particular tribes, and later by the general Jurisdictional Act of 1946, known as the Indian

Claims Commission Act, the Congress gave to the Indian tribes and groups the right to bring suit against the United States and to obtain compensation for tribal lands taken from them.

6. By these enactments, Congress has given force and effect to the declaration that Indian title is as sacred as the white man's ownership. The essential meaning of the Congressional actions and policy is that Indian occupancy rights—though they may not be covered by the due-process clause of the Constitution—should be fully protected by the Federal Government and held inviolate from interference by all others. Furthermore, as has been noted, for the purpose of providing a remedy in those regrettable instances during our earlier history when Indian title lands were taken without payment of compensation, Congress provided the machinery whereby the tribes might have access to the Courts and obtain compensation based on the fair market value of the lands as of the time they were taken.

HISTORIC BACKGROUND

7. We, the Natives of Alaska, have trust and confidence that Congress will adhere to the same honorable national policy and just principles which have uniformly guided it in dealing with aboriginal occupancy rights in all other parts of the country, ever since the founding of our nation.

The keynotes of our federal policy from the beginning have been honor and protection of the aboriginal occupancy rights of the native groups.

The underlying principles have been that native occupied lands should be acquired by the United States only with the *voluntary consent* of the native groups and for fairly negotiated price.

These keynotes and principles are embodied in a consistent course of legislative acts of Congress, treaties made with the Indian tribes, executive agreements made with Indian tribes and approved by both houses of Congress, executive proclamations, and in a long series of decisions of the Supreme Court.

The federal policy to respect and protect native occupancy rights, indeed, antedated the Constitution.

In 1783, the Congress of the Confederation prohibited all persons from making settlements on lands "inhabited or claimed by Indians." Again, in the Ordinance for the Northwest Territory the Congress for the Confederation directed that the lands and property of the Indians:

"* * * shall never be taken from them without their consent; and in their property, rights and liberty, they shall never be invaded or disturbed * * *."

The first session of Congress to meet under the Constitution enacted a law, approved by President Washington, which prohibited trespass, upon Indian lands. The protections of aboriginal occupancy rights in this law were amplified in a series of later statutes which are in force today as fundamental principles of Federal Indian law.

It is not suggested that our country's dealings with native groups are without blots. However, the record shows that when Congress has been apprised of mistakes or unfair or inequitable transactions, it has sought to provide appropriate restitution or other remedies, including the vesting of jurisdiction in tribunals, such as the United States Court of Claims and the Indian Claims Commission, to hear and determine the claims of injured native tribes of groups.

In considering the various legislative proposals to deal with the land occupancy rights of the Alaska native groups, it is worthwhile to remind ourselves of certain basic historical facts.

During our early history, the rapid population growth gave impetus to drives to acquire additional lands for purpose of increasing the resources and wealth of our nation and for the use of our pioneering settlers, who, in ever-rising numbers, were migrating westward. Conflicts broke out between the settlers and the Indians. These were periods of great stress .

The Federal Government was denounced for trying to protect Indian lands.

Complaints were made that Indian occupancy of lands was hindering the progress of the nation.

It was asserted that a policy of honoring tribal occupancy rights and purchasing Indian lands would impose vast liabilities on the Federal Government.

It was argued that Indian occupancy of lands created no valid rights; and proposals were advanced to expropriate the Indian lands against the will of the Indians and without payment of any compensation.

However, Congress firmly stood by its policy of respect for the land occupancy rights of the Indians. In acquiring lands for the expansion of the nation and the

use of the settlers, Congress recognized the just principle of voluntary purchase and sale for a negotiated price in its dealings with the Indian tribes.

Thus, up to 1871 the Federal government pursued a program of negotiating and making treaties with the Indian tribes, whereby portions of ancestral tribal lands were retained by the tribes as "reservations", and the Indian title to the balance of the lands was "extinguished" by voluntary cessions by the tribes and upon payment by the United States of agreed prices.

After 1871, the Federal government acquired Indian lands by executive agreements which were subject to ratification by both houses of Congress.

By such treaties and agreements made with Indian consent, the United States purchased the great bulk of the lands of the Indian tribes of the first 48 States at prices which, in the aggregate, having conservatively been estimated to exceed 800 million dollars—indeed a vast sum considering the national budgets of those early years of our nation's history.

Further, despite the loss of many millions of acres during the years 1880–1934, by reason of improvident governmental policies, it has been estimated that more than 50 million acres of lands of these States have been retained to this day in tribal or individual Indian trust ownership.

TODAY

8. Once again, now, in this sixth decade of the 20th Century, when the matter of dealing with the existing land occupancy rights of the Native groups of Alaska has come to the fore, we are hearing from some quarters the same baseless and inequitable arguments and the same discredited assertions and complaints which were advanced during earlier periods of our nation's history and which Congress has repeatedly rejected.

Some argue that the claims by the Native groups of Alaska of land occupancy rights are invalid.

Our answer is that our land occupancy rights are the same as the occupancy rights of the Indian tribes of the first 48 States. Our occupancy rights are entitled to the same respect, honor and protection that have been uniformly accorded to such rights under federal policy and laws.

Further, we answer that if there is any serious doubt about the validity of our occupancy rights, we ask only that Congress give us our day in Court so that we may have a judicial determination of the validity, scope and extent of our existing occupancy rights, and then afford to us full federal protection of such rights as are judicially established.

SPURIOUS COMPLAINTS OF IMPEDED PROGRESS

9. From some lips fall the familiar complaints that Native occupancy of lands is impeding the economic development and progress of the state of Alaska.

Our answer is that though we have the right of complete beneficial use of our aboriginally occupied lands and all the resources of such lands, we have been prevented and restrained from exercising our rights to deal with and develop such lands and resources. We say that only after we have been permitted the reasonable opportunity to exercise such rights a judgment may fairly be made as to whether our occupancy is hampering the economic development and progress of Alaska.

We believe that we have sufficient leadership ability to direct the development of our lands and resources.

We believe that we have the capacity—at least equal to the Federal and State bureaucracies—to make wise selection of experts and technicians to assist us, including engineers, geologists, foresters, managers, investment advisors, accountants, economists and lawyers.

Some argue that since the discoveries of valuable oil and gas resources on the Native lands have been recent and since the Natives in their aboriginal way of life did not exploit their lands for oil and gas, the Natives have no basis for complaint if the Federal government permits the Natives to continue to use the lands solely for hunting, trapping and fishing purposes, or if the Federal government appropriates the lands and compensates the Natives only for the value of the lands for such aboriginal uses without regard to the oil and gas values.

This is an argument which has been repeatedly rejected by the Supreme Court and the Court of Claims in cases involving Indian tribal lands.

By a parity of poor reasoning, it may be suggested that if Senator Jackson or Congressman Aspinall owned a 5,000 acre tract of mountain lands in his home

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state, which he used exclusively for hunting and for enjoying its beauty, and then valuable mineral deposits were discovered on the land, the Federal government could, lawfully and in good conscience, appropriate the tract and pay Congressman Aspinall only for its value for hunting purposes and for its beauty.

NATIVE LAND RIGHTS AND THE STATEHOOD ACT

10. Many have suggested that since the Alaska Statehood Act gave to the State of Alaska the right of selection of some 103 million acres of land, a serious dilemma has been created in that the exercise of such right by the State would necessarily require the selection of much land presently held by the Alaska Natives.

Our answer is that Congress was fully aware of this problem when the Statehood Act was passed. In accordance with the uniform federal policy to honor and protect lands held by aboriginal occupancy rights, Congress explicitly required the State of Alaska in the Statehood Act to "forever disclaim" all right or title to any lands held by Indian, Eskimo and Aleut groups.

We say that any State selection of lands which are held by Native aboriginal title is violative of the terms, intent and spirit of the Statehood Act and contrary to other acts of Congress as well as federal policy.

History shows that on the occasions when other States were earlier admitted to the Union, the acts of admission included provisions substantially identical to the "disclaimer" clause of the Alaska Statehood Act. Following the admission of such States, the Federal government by agreement with the Indian tribes acquired such Indian title lands as were committed to the newly admitted State. The same procedure is applicable to Alaska.

During the debates on the bill that became the Alaska Statehood Act, a number of distinguished statesmen, particularly the Honorable Ed Edmonson, advocated amendments to the bill so as to provide a mechanism for resolving the problem of any State selection of lands which might conflict with Native occupancy rights. However, Congress in its wisdom, decided to postpone the final resolution of this problem to a later day. We trust that the day is now and that in its resolution of the problem the Congress will act fairly and honorably as it has in the past.

Some complain that for the Congress to deal with the Native groups to acquire the Native lands in order to fulfill the commitment to the State of some 103 million acres would result in a great drain on the Federal Treasury, considering the oil, gas and other valuable resources of the lands. It is further argued that since lands held by Native title are not constitutionally protected against a taking by the United States, and for purpose of avoiding such a drain on the Treasury, Congress should expropriate the Native lands or pay a unilaterally fixed amount far below the value of the lands.

These are akin to the arguments of our earlier history which sought to place a dollar sign on national honor and integrity and which Congress rejected when it purchased the lands of the Indian tribes of the first 48 States.

CONCLUSIONS

Alaska Natives have assumed a statesman-like posture, reflective of a conscientious awareness of the welfare of all citizens, by their expressed willingness to negotiate on a political or legislative solution through the United States Congress. We, who are the first Alaskans, desire the development of our home State. We only ask that justice and equity be done and that, in the future, Alaska's Native peoples may become active participants in Alaska's development.

Although Alaska Natives have agreed to negotiate politically and are, therefore, not making recourse to the courts, we must emphasize that we are negotiating from a position of right and strength. We stress the fact that while we eschew the litigatory route, we still choose to retain the right to define our substantive legal rights, for therein lies the strength of our bargaining position and the basis of our negotiating effectiveness. Nevertheless, *litigation is a viable alternative, which we have, thus far, chosen to avoid.*

We Alaska Natives envision that provisions of an equitable settlement of the land claims will enable us to uplift the qualities of life for our people. Recognizing that frustrations may be derived from a minority status due to ethnic origin and economic powerlessness, we anticipate our ability to exercise the *prerogative of choice* within the context of our needs, our goals, and our desires. We will

recognize that many of our people will choose life in the villages, because it is, for them, a fulfillment and a satisfaction, while others, desirous of projecting themselves into a competitive society, will have the means to do so.

Economic and industrial development activities will bring untold financial and other development benefits to the state as we administer the lands and compensation forthcoming in satisfaction of our land claims. Essential to the success of this phase of our operations will be the inclusion, within the terms of the settlement, of maximum opportunities for self-determination; the Dept. of the Interior *must* be restricted to a non-policy role to the fullest extent possible.

Please note, we do not ask that we Alaska Natives be *given* land and compensation. We ask that our valid legal rights be recognized and that our right to retain that which *is* ours and our right to be compensated for that which we give up be implemented.

I am proud to state my belief that there is no nation on earth which has, during its history, set so high standards of dealing with native aboriginal peoples as the United States and no nation which has been more willing to rectify situations when it has fallen from those high standards.

It also gives me pleasure to state my belief that our country has, in its best traditions, sought consistently to act fairly and equitably in matters pertaining to the original native occupants of the lands of this country.

Senator GRAVEL. Mr. Notti, the floor is yours.

STATEMENT OF EMIL NOTTI, PRESIDENT, THE ALASKA FEDERATION OF NATIVES

Mr. NOTTI. Mr. Chairman, members of the committee, I am honored to testify before you once again. Nevertheless, I hope that I will not be testifying before you on too many more occasions with respect to settlement of the Alaska Native Land claims. I hope that in the near future this issue will be solved so that we can focus upon the question of how to use Alaska's resources for the benefit of all its people.

I do not appear today on behalf of any single Native group. I speak today for the Alaska Federation of Natives of which I am president. In light of the history and organization of the Federation, I think I can fairly say that my testimony is on behalf of virtually all Alaska Natives—be they Eskimos, Indians, or Aleuts.

In the course of these hearings, I, and other federation representatives, expect to be able to present you with a single Native position on the details of a land settlement—a reasonable position which will be specific in terms of actual dollars, acres, and administrative techniques, and which will reflect both an accommodation of the interests of the various Native groups and a recognition of the legitimate interests and problems of the State and of the Federal Government.

While I am making this statement for the federation, I should add I am not the sole federation representative. Justice Goldberg has introduced my colleagues. These men may wish to supplement my statement and all of us are here to answer any questions you may have.

I have discussed this matter with the directors of the federation. Each of the directors represents one of the 19 regional native groups, and these groups, in turn, represent virtually every native village. Without exception, the directors feel that it is essential that the natives agree upon a reasonable and politically feasible proposal. The directors feel that, insofar as the native land issue is concerned, there should be our native army and one spokesman; they feel that the army should be the federation and that the spokesman should be Justice Goldberg.

It is a major step for the natives to have one voice and one spokesman. And in light of the history of the native land claims, it is an essential step.

There was no land claims issue, of course, until nonnatives came to Alaska. It was our land, and while one might wonder how we could survive in it, no one challenged our title.

During the late 18th and early 19th centuries, when exploitation of Alaska began in earnest by the Russians and Americans, nobody thought much about native land rights.

When the United States purchased sovereignty from Russia in 1867 (without anybody bothering to consult the natives—apparently we were considered part of the terrain—the treaty provided that the Russian Alaskans could become American citizens but the "uncivilized native tribes"—i.e., my ancestors who had conquered the ice and subzero temperatures for thousands of years—could not. The treaty made the "uncivilized tribes" wards of the United States, and our disposition was left to Congress.

The courts have held that because of our ward status the United States is obliged to protect native property rights. But it was not until 1884 that Congress first faced the problem. In that year Congress passed the Alaska Organic Act which provides that the natives "shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress."

One hundred years later it rests with this committee to make some decisions on it.

This act was prophetic of the Government's future approach to the native land problem. It recognized aboriginal title but it made no real attempt to find a solution.

Subsequent legislation and executive action tried to impose nonnative property concepts upon the natives. Some examples of these attempts include a homestead act, proclamations establishing national forests and a grazing act. However, because of different cultures, different economic systems, different concepts of land use and Alaskan climatic conditions, these steps did virtually nothing to help the natives or to solve the land problem. On the contrary, they have served to aggravate the problem.

In 1924, the natives graduated from "uncivilized tribes" to citizens. I think that the outstanding record of the Alaska natives during this country's wars and our intense patriotism demonstrates what this means to us. Without exaggeration, native Alaskans have been called America's leading patriots.

The Citizenship Act provided that the granting of citizenship did "not in any manner impair or otherwise affect the right of any Indian to tribal or other property." Still, there was no answer given to the question of what rights the natives had; that question was not even faced.

As the nonnative population grew, the land issue began to cry out for an answer. During World War II, Alaska was rediscovered, and the nonnative population became much greater than the native population. A decline in native population since the purchase from Russia contributed to this.

In 1946, the Indian Claims Act was passed permitting the Government to be sued by natives on claims involving aboriginal title. This act and similar acts proved one thing; a full and equitable solution to the Alaska land problem would never come about by processing monetary claims before judicial or administrative bodies. As Chairman Jackson brought out at the hearing over a year ago, the procedure is simply too slow, and the remedy is too limited.

The adoption of the Alaska State constitution in 1956 and the Statehood Act in 1958, constituted further recognitions of aboriginal title and further failures to solve the problem. The constitution purported to protect aboriginal title, but it stated that the native rights would be defined in the Statehood Act. The Statehood Act provided that the State disclaimed all lands, the right or title to which were held by any Indians, Eskimos, or Aleuts, or by the United States in trust for them. But it failed to define lands. So what Congress said constituted only general conditions and not a framework for a solution.

Another provision of the Statehood Act made it essential that the native land problem be solved without further delay. Indeed, if it is not solved soon, it will be extremely difficult, and perhaps impossible, to ever have an equitable solution to the land problem. Under the Statehood Act, the State of Alaska is allowed to select 103 million acres of Federal land for itself.

I am not a lawyer and cannot precisely define the rights which this provision gives to the State or how it affects native title. However, it is perfectly clear that if the State is allowed to select the most valuable lands and if the native claims are limited to the remainder of the lands, the natives may very well end up with little of value.

We, of course, have recognized that our rights will be vitally affected if the State is permitted to select any land it wishes. Accordingly, the natives have presented claims for nearly all of the remaining public domain lands.

Aware of the potential inequity to the natives and of the seriousness of the problem, Secretary Udall temporarily suspended transfer of lands claimed by native groups. Secretary Hickel has agreed to keep this "land freeze" in effect until the end of 1970. What will happen if the problem is not solved by this Congress is anybody's guess. Frankly, I feel that any solution reached after the "freeze" expires will be a disaster to the natives.

The history which I have briefly sketched demonstrates that native claims have been recognized, in theory, from the outset, but that native rights have been disregarded in practice. If something is not done by this Congress, it may be too late.

Nobody realizes the seriousness of this problem more than the natives. It was largely because of this problem that regional native groups began to organize in the early 1960's and that the Alaska Federation of Natives was organized in 1966 in order to speak for all of the natives.

As you will recall, it was our federation which first proposed a legislative solution to the land issue, which first proposed that the solution be arrived at through discussions among the natives, the State, and the Federal Government, and which first advocated the development corporation concept.

We are here today and we are represented by Justice Goldberg because we know that our entire future is on the line.

In asking for fair treatment and just compensation for our lands, we recognize that we do not carry a big stick. In terms of population, we come from a small State, and we represent only about 20 percent of the population of that State. We are not going to swing any national elections and we have not made nonnegotiable demands. If each of every native were gathered together in Pasadena, Calif., we would barely fill half of the Rose Bowl.

But what we lack in sheer political power or force of numbers, we more than make up for in legal and moral right.

The nature and history of this committee demonstrates that power need not be the controlling factor where questions of right and wrong are involved. I am convinced that this committee wants to do the right thing and will do the right thing if the parties in interest do not lose sight of the basic principles mentioned by Justice Goldberg as they get into the details of amounts, acres, location, dates, and administrative techniques.

I agree with our counsel that we cannot at this time take a firm position on the Federal field proposal, on S. 1830, its outgrowth, or on the proposals made here today. Given the scope of the problem, the complexities of S. 1830, the short time during which we have had these proposals, the need to determine what to do with the proceeds of any settlement, and the political necessity of trying to compromise differences with the State and the Department of the Interior, it would be irresponsible to take a firm position at this time. But we will take a firm position in the very near future. If our rights are not to be destroyed by termination of the land freeze, we must do so, and we will.

However, even though I am not able to talk specifics at this time, I would like to comment in general on some of the problem areas raised by the field committee report and S. 1830. In particular, I would like to point out three problems which are of critical concern to the natives and which are unfair and offensive to us.

First, under any fair settlement, the natives must be given a reasonable amount of land for themselves. They must be treated like other citizens and allowed to own not only the surface but the wealth, if any, which lies beneath it.

Last year we proposed that the natives retain 40 million acres in fee. S. 1830 provides for approximately 4.6 million acres—a grossly inadequate amount. In light of the applicable geographical, historical, and economic factors, it is unfair to ask the natives to be satisfied with 23,000 acres per village. We are not talking about valuable land in Washington or New York or about fertile farmland in the Midwest. We are talking about remote and rugged land which yields very little for economic survival.

Second, the field committee report and S. 1830 raise the possibility of the compensation being in the form of a percentage of the resources taken from the land. This is an interesting idea which warrants careful consideration because it ties the settlement directly to the value of the land.

However, S. 1830 provides that the natives shall receive a share of the land's mineral and other revenues for only 10 years, and that this

share should not exceed the revenues available for each year or $100 million for that year, whichever is less.

I suggest, with all due respect, that this is a form of gambling rather than a form of just compensation. Much Alaska land may not yield any meaningful income within the next 10 years. If our compensation is to be based upon the true value of the land, our right should be to receive a share of the fruits of this land so long as the land yields fruit. In short, the time, amount and percentage limitations of S. 1830 are unfair.

Third, the field committee report and S. 1830 recommend the formation of an Alaskan Native Commission and of a Native Development Corporation to administer, invest, and distribute the proceeds of the settlement. The idea of development corporations—which originated with the federation—is a promising one because it permits the funds to be used to develop the economy of the natives so that they will become truly self-sufficient for all times.

However—and this Mr. Chairman and Senators is of great importance—if there is to be a commission or corporation or a board or any other organization to handle and spend our resources and to plan our fate, we, the natives, should control such organizations. We have been treated as "wards" for many years. We have not profited by the "wardship"; we are humiliated by the very concept which assumes that we are something less than other citizens—and I assure you that we are not.

To put it bluntly, we want to manage our money and our lives, and we must question the fairness of any settlement which does not enable us to do so.

Because of the problems which we will face when a settlement is agreed upon, and because of the other problems which are created by the growth of technology and the discovery of resources in Alaska, we intend to develop a long-rang plan for making optimum use of our resources. Our goal is not merely dollars and cents, but to give each native the opportunity to join the mainstream of American life on equal terms if that is his wish, or the opportunity to continue the traditional way of life while enjoying the full benefits of modern science if that is his wish. We are attempting to obtain from private sources funds to formulate such an economic program. I hope to be able to report substantial progress to you in the near future.

In closing, I would like to note that, insofar as Alaska natives and the land claims are concerned, neither the past nor the present gives us much cause for satisfaction. But the future can be something else. Alaska is very wealthy—one can only guess how wealthy. There is a great deal for everybody. We are ready to settle our land claims in return for fair consideration and the opportunity to be the masters of our fate. I do not think that we are asking for anything unreasonable; and I know that you will do your utmost to achieve a fair solution.

Our peoples have never been conquered either by force of arms or by force of the elements, and we are confident that we will not be conquered by our present problems. We only ask for compensation for that which has always been recognized to be ours.

We already have begun to study the field committee proposals. We shall address ourselves immediately to Secretary Hickel's and Gov-

ernor Miller's proposals. We shall attempt to resolve all differences with the State and the Federal Government. I believe that we can do so, and that the natives, Alaska, and the entire country will be the better for it.

Senator GRAVEL. Thank you, Mr. Notti, for a very fine statement.

Senator Stevens, do you have any questions?

Senator STEVENS. I think Mr. Notti has indicated the same as Ambassador Goldberg that he wants time to review these proposals.

I do have one general proposal, Mr. Notti. Is there anything that has been presented either by Secretary Hickel or by Governor Miller that you would disagree with, that you know now that you would not agree with?

Mr. NOTTI. There was one thing that the Secretary proposed this morning that I think we will have to take back for our people and give serious consideration to. And that is not sharing in any revenues or wealth under the land, particularly oil. We feel we should have fee title to land.

Senator STEVENS. As I understood his proposal, of the Bureau of the Budget, you would have title to the two sections subject to a reservation of the Mineral Leasing Act minerals only, oil and gas, and as I understood his comments further, that was subject to some further discussion as to the areas of actual occupancy, but not as to the areas of hunting and fishing.

Mr. NOTTI. Generally I was very pleased by his statement. It indicates that we have moved a long way from the position 2 years ago and a year ago. But I would like further time on this one particular proposal.

Senator STEVENS. Do you have any idea—and I am sure this is a tough question, Mr. Notti—do you have any idea of what your timing is going to be? I think that the chairman—he is not here now—but I am sure that he wants to move along quickly, and we have discussed, incidentally, in your discussion with me just prior to the meeting. And he has indicated that he would be willing to have the staff and your people and those other Alaskans who are here sit down informally tomorrow and see if we could have almost a pretrial conference to deliberate the areas of agreement and disagreement on a staff level, if that is what you are seeking.

Mr. NOTTI. We would be very pleased to do that. It takes a great deal of money to bring our people down this far. And while we are here we are ready to sit down at any time, beginning this evening, if possible. And we will stay here if these things can be arranged to work out some of the details.

Senator STEVENS. I think you should determine who would participate in that type of a staff conference. He indicated tomorrow would be agreeable with him. It would seem to me that if we can get the Alaskans who are here to participate with the staff people and outline the areas of agreement or disagreement, perhaps we could shorten the period of reflection that you and your people want to have on the proposals which were made by the Secretary and the Governor.

Mr. NOTTI. We are anxious to do that. We are available for a week or 10 days if necessary.

Senator GRAVEL. Senator Stevens, I want to thank you for that recommendation. I know you initiated it with Chairman Jackson

earlier. And I think it will expedite the solicitation of provisions, and also the eventual solution.

Senator Bellmon, do you have any questions?

Senator BELLMON. No, sir.

Senator GRAVEL. I have one question that has crossed my mind. I know firsthand of Mr. Borbridge's reputation as a de facto attorney with a land claim background. I recall in one instance, and we did not have a chance to pursue it at great length, that we did gain a dissertation on the Alaskan land claim and its relation to the total land claim picture of the Nation. I wonder if for the benefit of all of us you would not take a moment or two and give us your views relating to the Alaskan native land claims, to the history of the land claims as they have been developed in the Nation?

Mr. BORBRIDGE. I thank the chairman for his expressed confidence in the ability of a layman to deal with the question. And I would also, before delving into it, thank the chairman for inserting into the record the contents of an article which I had presented in a previous speech. I had not anticipated that this would happen.

Relative to the question itself, perhaps it would be germane, Mr. Chairman, and Senators, at this point to touch on some of the unique factors which make the Alaskan native land claims perhaps a little bit different. It strikes me that this is important to our understanding and appreciation of the context of these claims, because generally we have before us the examples of other land claims which have been pursued either within the Indian Claims Commission or under previous jurisdictional acts before the Court of Claims.

Generally within the south 48 we have found that most of the cases have dealt with lands which were taken at an earlier period. And in accordance with the general procedures of the judicial system within these cases, the evaluations have been fixed as of the times of the taking. Thus, for example, I believe the California case, which approximates a recovery of 29 million, was based on a fair market value as of the date of taking, which would be in 1953, which recognize that in the Alaska native land claims that we are eschewing the adjudicatory route, and instead we are moving into the Congress. In effect, as Senator Stevens has said on occasion, we are substituting the judgment of the Congress for that of the court. And in order for this to proceed most effectively, we need to stress the unique fact that in Alaska we have had as a general premise no takings to any great extent. Thus if we follow this premise a little further, then it would appear that the takings would be more of a 1969 date, which would include within it of course the valuation, some of which can be reflected in the recent activities of oil exploration on the North Slope.

The explanation which I offer is not so much to make more complex an already complex subject, but I think more nearly to help us to understand why there might be this difference between the scope and the size of the settlement which the Alaska natives seek and the difference between those and the size of the recoveries which had been previously accorded to other Indian tribes. I thought perhaps this point might be germane.

The other perhaps goes more nearly to the fact that within the general question of land claims we have had a series of Supreme Court

decisions which have touched on the definition in a series of cases as to the validity of Indian title. And we are very fortunate in that development of national policy itself from the very early times of the Northwest Ordinance, moving through the period of time up to 1871 when we dealt through the media of treaties, followed by Executive agreements, we found that the extinguishment of Indian title has been a matter which has either been adjudicated through the courts, or it has been a matter of national policy, whereby the U.S. Government had dealt with the Indian tribes and reached an agreement with the tribes whereby they would agree to extinguish Indian title.

I think perhaps the thing that makes it rather difficult for us to appreciate this full sweep of national policy and the full significance of the cases coming before the Supreme Court is that we have not had to do anything of this nature since around 1912, with the last addition to the States of the Union.

I thought, perhaps, Mr. Chairman, that since you have issued the invitation to elaborate on some of these points, that these might be helpful to a full appreciation again of why there is something very unique about the Alaskan Native land claims. I perhaps might conclude by saying that I have always been a very fervent believer in the fact that the posture of the Alaskan Natives has been a very statesmanlike posture, and that we have engaged perhaps the most masterful negotiator we have had in some while to represent our rights and we have likewise realized that there is not only a sentiment to settle the claims because settlement has been long deferred, but there is a need to achieve the settlement because we do not only represent Alaskan native constituents who elected us to these responsible posts, but we too are concerned about the development of our State. And that development should go on with the benefits accruing to all of its citizens.

We further anticipate that when the terms of the post settlement provisions are drawn up, that these too will benefit not only Native Alaskans, but certainly all Alaskans, and in effect, instead of needing remedial legislation to right a wrong, we will have anticipated the needs of a population possessing valid, substantial rights, and we will have met these rights. Thus I think in effect we would all benefit from such a settlement.

Thank you, Mr. Chairman, for the opportunity.

Senator GRAVEL. Thank you, Mr. Borbridge. I have no further questions.

Mr. Stevens?

Senator STEVENS. No further questions.

Senator GRAVEL. Thank you very much.

Mr. NOTTI. Mr. Chairman, we appreciate the opportunity of appearing.

Senator GRAVEL. We would now like to hear from the distinguished gentleman from the Federal Field Committee, Mr. Joe Fitzgerald. He has labored hard in the vineyard seeking a solution. Mr. Fitzgerald, would you also introduce your colleagues for the record.

You may proceed, sir.

STATEMENT OF JOSEPH H. FITZGERALD, CHAIRMAN OF THE FEDERAL FIELD COMMITTEE FOR DEVELOPMENT PLANNING IN ALASKA; ACCOMPANIED BY DAVID M. HICKOK, NATURAL RESOURCES OFFICER; ESTHER WUNNICKE, STAFF ATTORNEY; ROBERT ARNOLD, NATIVE AFFAIRS OFFICER; AND ARLON TUSSING, STAFF ECONOMIST

Mr. Fitzgerald. Thank you, Mr. Chairman.

On my left is David Hickok, natural resources officer and the editor in chief as it were of our product, "The Alaskan Native and the Land."

And on my extreme is Mrs. Esther Wunnicke, who is the attorney for the Federal Field Committee, and the author of the portion of our study which deals with the land problem in Alaska.

And on my right of course is Robert Arnold, whom I think is the most knowledgeable man on Native problems in Alaska.

And on my extreme right is Dr. Arlon Tussing, who is an economist for the Federal Field Committee and the principal draftsman on our proposal.

Senator Gravel. That is quite an array of talent.

Mr. Fitzgerald. Mr. Chairman, I have a prepared statement which I will wish to read for the record. But before I do so I think there are several matters that I should mention. I am leaving the Government as of May 2, and plan to join the Atlantic Richfield Oil Co., in Alaska. As questions may be raised as to a possible conflict of interest; I have looked into the position taken by the oil companies on the subject of Native lands claim, particularly their testimony submitted at the hearings before this committee on July 12, 1968, which appears on pages 532–554 of the printed record of these hearings.

Their general position was that the Alaskan Native land claims should be settled on a fair and equitable basis, and that legislation to this end should be enacted as soon as practicable. This general position does not seem to raise any issues that would prevent my appearance today. They did, however, express concern on a few matters:

1. The need to settle claims to water as well as land;
2. Clarification of the status of land presently under Federal mineral lease;
3. Continuance of the so-called land freeze; and
4. Creation of easements over land needed for the administration and utilization of Federal lands.

I have with me today members of my staff that I have introduced to you. And if any questions are raised regarding these matters, they can be answered by a staff member.

On this basis I believe I can testify on other aspects of Native land claims without prejudice or conflicting interests.

I did not have the opportunity to review the testimony of other witnesses before presentation today. But I would like specifically to say that I find no element of major difference between myself and the Governor of Alaska on the positions that he has taken. So that I do not endorse what he said. And basically to the extent that he is asking for changes, I would be in general agreement with those changes.

On behalf of the Federal Field Committee I wish to thank you for the opportunity to appear today and testify on proposed legislation to resolve the claims of Alaska natives to the lands of that State.

This legislation is of unusual historical significance for it holds the promise of a major step forward in the solution of the social and economic problems of all native peoples of Alaska. Legislative action now at this session of the Congress is also of major importance as it is the essential step prior to a lifting of the land freeze which otherwise threatens to become a major roadblock to the full economic development of the State.

Of longer range, but ultimately of equal national significance, is the impact of a settlement of native land claims upon the extent and administration of the public domain which now comprises over 95 percent of all lands in the State.

In the few minutes I have today, I cannot review in detail the plight of the Eskimos, Aleuts, and Indians of Alaska, whose traditional ways are rapidly being eroded by the State's economic development, but whose majority have not found any way to get a secure foothold in the larger American economy. The conditions of these people and of the communities in which they live are described at length in the study. "Alaska Natives and the Land," which the Federal Field Committee staff prepared earlier for this committee. Our report also traces the history of Government policy toward, and the legal status of, Alaska natives and their land claims.

Put simply, the stated policy of our Government over the last century has shifted back and forth between assimilation and the protection of a separate way of life for the natives. Both aspects of our intentions, however, have been overwhelmed, in fact, until very recently by a general neglect of these people and their problems.

This neglect has left the natives and their rights, particularly toward the land on which they live, in a limbo of legal uncertainties. All the bills presented to you in this session and in the last session of the Congress are based upon an agreement that the natives have a very strong moral claim against much of the land area of Alaska, but a very uncertain legal claim to ownership of these lands themselves.

The legal claims, however, have been substantial enough to complicate further withdrawal of lands for Federal purposes and particularly to impede Federal transfer of land to the State or to the other third parties under the public land laws.

There is further agreement, both on practical grounds and on the basis of the Organic Act of 1884, that a general solution of these issues must be legislative solution. It is unfortunate that more than a century of U.S. jurisdiction should have to pass in Alaska before the aboriginal rights of the natives are either defined or confirmed. But, since the issue is still with us, it is fortunate that the responsibility for a settlement rests with the Congress, which has the ability to fashion a package which both meets the needs of the natives, today and for the future, and does not undermine other public purposes, including the wise conservation and the wise development of Alaska's resources.

I do not believe that any settlement—more realistically, any haphazard combination of individual settlements—hammered out in adversary proceedings before the courts, and bound by the legal

precedents of past judgments on Indian claims, would have met either of these goals, justice to the natives and wisdom in resource management, let alone both of them.

The elements of any claims settlement must (1) provide to the village people the land they actually use for homes, businesses, hunting, and fishing camps, and the like; (2) assure those who pursue the old way of life continued access to the fish and wildlife resources necessary to that way of life; (3) compensate the natives for land they claim was taken from them in the past, either by the establishment of Federal withdrawals such as military bases, national forests, and the like, or through transfer to third parties, including homesteaders, miners, and the State of Alaska; and (4) either confirm unambiguously, or compensate the natives for, those remaining aboriginal rights they claim in the public domain.

These requirements might be met with land, or rights in land, or with money, or with a combination of land and money. What is different in the Federal Field Committee recommendations from most earlier proposals is that they take up separately the four aspects of a settlement—land for use, protection of subsistence resources, compensation for rights claimed in the past, and compensation for remaining aboriginal claims. We feel that this approach better serves the real needs of the natives without placing huge blocks of public land under private control and without requiring unrealistically large appropriations from the Federal Treasury.

ELEMENTS OF A PROPOSED SETTLEMENT

The elements of the proposed settlement are these—

(1) Land used by individuals in the villages is transferred directly to them with a minimum of redtape; the villages themselves each become eligible to select up to 36 square miles of surrounding land if they incorporate as organized communities under State law. This provision is the one most immediately important to the village people, who are now in most cases only "squatters" on Federal land. Between 3 and 6 million acres would ultimately be transferred in this way.

(2) Control over fish and wildlife largely passed out of the hands of the Federal Government at statehood, so the protection of subsistence resources or the assurance of continued access to them cannot be completely taken care of in Federal legislation.

The Federal Government does, however, have the power to regulate the use of Federal lands for purposes which might conflict with the wildlife resources, and to regulate entry onto Federal lands for hunting, fishing, or trapping. The Federal Field Committee recommendations include a provision for the Secretary of the Interior to classify lands surrounding villages so as to make their use for subsistence fish and wildlife production a priority one among competing uses. A related provision would allow the emergency closure of strictly delimited areas of Federal lands to entry for fishing, hunting, or trapping by any other than local people where the wildlife resources is not sufficient to support both the subsistence needs of the residents and use by outsiders.

(3) For claims to lands taken in the past for Federal purposes, including defense reservations, national parks, wildlife reserves and for-

ests, or granted to the State or to private persons, we do not propose to grant blocks of land, which can never be identical in significance to these lands lost in the past. We have proposed the most adaptable resource, money—$100 million, or roughly $1 per acre—to be granted to a new investment corporation owned by all the natives of Alaska. Congress may conclude that $100 million is too much or too little, but this approach preserves the integrity of the important Federal reservations, most of which have been made to protect the interests of all the American people.

(4) Although Congress has at least twice recognized the existence of aboriginal rights in the lands of Alaska, it has never defined them. Our recommendations propose to extinguish these vague and generally unenforceable rights and to grant the natives in their stead a material and enforceable claim against the value of these lands in modern society. The specific provisions are aimed at granting to the Alaska Native Development Corp., mentioned earlier, approximately 10 percent of the present commercial value of the natural resources on the public domain in Alaska. We have suggested three general ways this aim might be met, but in each the revenues are not to be appropriated from the Treasury, but would come from the proceeds of the land itself, mainly from oil and gas leasing.

Again, we have attempted to provide the most adaptable single resource both for those natives who live in the villages and for those who are moving into the modern urban economy—rights to money income. At the same time, this proposal, at no loss to the natives of land for actual use or of potential income, preserves best the principle of public ownership of resource stocks and public management of resource conservation and development.

The Federal Field Committee proposal suggested three alternative methods of compensation. The preferred approach is for the native development corporation to share in the revenues from leasing or sale or resources on public lands in Alaska over a period of 10 years. This approach would introduce the fewest complications into the pattern of land tenure and management.

But the most valuable acreage for oil and gas leasing remaining in the public domain will almost certainly pass to the State very rapidly under the terms of the Statehood Act after the lifting of the Secretary of the Interior's "land freeze."

To be effective, any revenue sharing proposal will have to apply to all lands in Alaska now held by the Federal Government, including those patented to the State after the effective date of the legislation.

I still believe that a share of revenues over a specific period of time is the most satisfactory form of compensation, but it may not be the easiest to implement politically or administratively. For this reason we suggested two alternative forms of compensation, either of whose money value would be in the same order of magnitude as the revenue-sharing package. Each of these alternatives involves a grant of land to the Alaskan Native Development Corp., but of mineral rights only, providing to the natives a source of income, but preserving public ownership of the surface of the land. One alternative grants to the corporation the minerals in specified sections out of each township of Federal lands, amounting in total to about one-tenth of the State's land area; the other provides to the corporation a right to select, ahead of

the Sate and other claimants, the mineral estate on 5 million acres of Federal lands.

"ABORIGINAL RIGHTS" AND CIVIL RIGHTS

The traditional approach to Indian claims, the reservation or wardship system, has worked very poorly in the past, and has no place in Alaska. One alternative to the kind of settlement I have described is to give the natives, as individuals or as small groups, a little bit of Federal money and a vast amount of nearly worthless land in reservations or in otherwise restricted title.

Politically, this would be the easiest course; many of the village people would understand it readily and would accept it. This kind of solution might appeal also to some Federal and State administrators because it costs very little, raises few obtacles to rapid commercial development, and preserves the principle of government wardship over the natives. It would be a tragedy for Alaska if this approach were to prevail, because it would make no contribution to the social advancement of the Native people, and would in the long run complicate the land and resource management problems for all of us.

Senator STEVENS. Do you mind being interrupted, Mr. Fitzgerald?

Mr. FITZGERALD. Not at all.

Senator STEVENS. Do you know of any political person in the State of Alaska or outside who ever suggested such a course?

Mr. FITZGERALD. Yes, I have heard of such.

Senator STEVENS. I wrote Mr. Tussing about this. And I think you have done a very great disservice to the cause of the settlement of these native land claims by bringing in these hypothetical persons who might suggest something that is viable or might not be viable as far as the State is concerned. And this is the third time I have seen this repeated. I do not know who you are talking about. What politician has been, as you say, advocating giving vast acreages of land and no money to the Alaskan natives?

Mr. FITZGERALD. I would be glad to strike this from my testimony. I was not trying to raise it as a controversial issue.

Senator STEVENS. I do not think you do any good for those of us who are fighting for the Alaskan natives to create those hypothetical strawmen and then knock them down. I really wish that someone would go over your staff papers and see to it that we do not create them any more.

Thank you.

Senator GRAVEL. Please continue, Mr. Fitzgerald.

Mr. FITZGERALD. It should be clear that no part of the legislation is intended to abrogate or replace the rights and obligations of Alaska natives as citizens, nor to diminish or replace the obligation of the United States and the State of Alaska to defend and advance their rights and their welfare as citizens. For this reason, we saw no justification for giving special tax privileges either to natives or to lands granted under this legislation.

One essential feature of every part of our proposal is that it intends, over a 10-year period, to put an end, finally and forever, to any racially defined rights, privileges, or institutions with respect to the land of Alaska. Land is to be granted in fee to those natives who occupy it; and their ownership of that land will thereafter be no different from that

of a white, or Negro, or Japanese-American who owns a house lot or business property.

Land for community purposes is to be granted in fee to native villages which incorporate under Alaska municipal law; and the tenure of that land will be no different, no more racially defined, than that of land owned by the city of Anchorage or the city of Juneau. Subsistence wildlife resources are to be protected for those who depend on them, whatever their race or color.

Each native, in compensation for his ancestral rights, extinguished either in the past or by the legislation settling native claims, is to receive valuable common stock in a new investment corporation. Once this corporation has had an opportunity to get on its feet and acquire an experienced management, and its shareholders have had an opportunity to understand just how much their shares are worth—we have proposed 10 years as a period of transition—the Alaska Native Development Corp. is to become a public corporation. Each native may hold his stock or sell it as he desires, and you or I may buy stock if we desire without racial restrictions. In short, "aboriginal rights" are to be exchanged for useful and relevant civil rights.

LOCAL AND STATEWIDE ELEMENTS OF THE SETTLEMENT

There is one final aspect in which the Federal Field Committee proposal differs from some of the others which have been presented to Congress, and which ought to be explained. We have proposed a single statewide settlement, and have not proposed that the settlement legislation established regional or local native corporations.

Land for homes, businesses, and campsites must be provided where they are; and lands for community use and expansion need to encompass or be adjacent to the respective villages. There are many reasons, however, for a statewide compensation package. The forms of land tenure and the intensity of land use vary widely among different native groups; we could not conceive of a formula, either for land grants or for money compensation, which would seem even on the surface to be equitable to the various groups taken separately.

But far more importantly, land grants or resources shares apportioned on a local or regional basis would leave some natives very wealthy, and the vast majority little or no better off than they are today. In addition, anything narrower than a statewide settlement would complicate enormously the problem of enrollment and identification of natives for the purpose of determining entitlement to a share of the compensation.

I am aware, however, that there is strong sentiment within many of the native organizations for the establishment of regional corporations as a vehicle for management of assets granted in the claims settlement. Their spokesmen have some very good arguments for this approach, and I do not need to repeat them.

I would suggest, however, that Congress not attempt the actual division of the State into regions and the actual apportionment of compensation among these regions. Arriving at a satisfactory determination of this apportionment, and at a satisfactory determination of each individual's entitlement to share in the appropriate regional organization, could introduce serious administrative complications and delays in carrying out the legislation.

I also foresee much greater problems in assuring at the outset adequate management talent for many regional corporations than for one statewide corporation. A better approach, in our view, would be to write into the legislation as one of the powers of the Alaska Native Development Corp. the establishment of regional subsidiaries, or the financing of regional development corporations, subject to proper safeguards for the security of invested funds.

This approach provides at the beginning all the advantages of a single large investment organization but, in the long run, gives to the natives through this corporation an even greater freedom to choose the balance they wish between statewide and local enterprises.

Freedom of choice is a good point on which to begin my conclusion. Our aim has been to devise a settlement package which gives security to the village people who choose to pursue the old ways—security in the land they use and in the wildlife on which they subsist. Just as important, however, we have been concerned about the increasing number of young native men and women who are choosing to leave the villages and seeking careers in the cities and towns, concerned that a settlement not leave them tied to the land nor without anything to show upon giving up their ancestral rights. For good or bad, these are the future majority; and, of the two groups, their problems are probably much the more difficult.

Both groups, the village people and the urban natives, are a long way from self-sufficiency and will be so for many years. The cost of assisting them through special programs in health, in education, and in income supplements can be expected to grow. If the United States adopts, as is highly probable, some system of income guarantee in the next decade, the cost of assisting a group whose median income is now about one-fourth of the national figure will be enormous. For this reason, any outlay for settlement of native claims, to the extent it reduces future public burdens, is far less costly than it might seem.

The same incomes which we would see as degrading if granted as welfare payments to the poor and unemployed might look entirely different coming from corporate securities received in exchange for ancient and honorable rights.

The Bureau of the Budget advises that, while there is no objection to the submission of this testimony; the Bureau supports the approach recommended by the Secretary of the Interior and his report to your committee on S. 1830.

Senator GRAVEL. Thank you, Mr. Fitzgerald.

I have a few questions. We are talking about a sizable report that was prepared by the Field Committee, yourself and your colleagues. Would you give us some perspective of where the knowledge was drawn, the approach, the criteria used and in general terms the basis for the report?

Mr. FITZGERALD. Mr. Chairman, we first started, of course, with making an effort to systematically draw together as much of the material as we could which would be helpful to the Congress in resolving the native land claims.

To do this we enlisted help from all the Federal agencies in Alaska, from the natives themselves, both urban and rural, from industry, from eminent ethnographers and from local and State government, and uni-

versity people. Literally hundreds of people in all walks of life contributed to our report.

We wanted to first set out the nature and condition of the native peoples of Alaska, and to follow that with a full and detailed analysis of the actual pattern of land use which the natives have in the past and in many cases are making today of the land and resources of Alaska, and we think we have accomplished this.

We then sought to deal with the whole pattern of land used and management in Alaska, which is a separate chapter, and to deal with the economic implications, and finally, to end with a chapter which we call the framework for decision.

I think that as our work progressed we became well aware of the fact that we had to make proposals which would be different than many proposals being made in the past. The facts made this clear. In the United States, in the South 48, Indian claims were treated as claims of groups of people, tribes. If you deal with the native claims on the basis of groups, you find you get automatically into concepts which lead to trusteeship, reservations, and so on. To get away from this we saw that the solution really lay in dealing with the rights of natives as individual people. And this is why, for example, we proposed that title go to the individual native.

We also believe that one of the great problems in Alaska is that it is on the very threshold of its development, and it would be unwise in Alaska to create today nearly 200 reservations, one for each of the small villages in the State. Alaska today is an open society, its communities are open, while we talk about open villages, these are not closed villages. White people, other people live there too. And it would be very desirable in the long-range political future of Alaska to keep it this way. And it is this kind of concept we have tried to bring to our proposals.

And we have also tried to suggest a formula which would be generous in its amounts, because we feel that whatever formula for actual payments is adopted—and we know this is an area of great conflict—it must produce a generous settlement, or it will not do the social and economic job that we think needs to be done in the years ahead in Alaska.

We also recognize that the surface control in Alaska is extremely important, because not only is Alaska our last great frontier, but it is our last untouched great land mass under the American flag. It is a unique resource. Its wise, long-range management is extremely important. So, we felt that where the interests of the natives could be resolved by giving them participation in the mineral resources, but where they did not need to control the surface, it would be wise to leave this surface control in the Federal Government. This explains our separating our mineral resources from the total fee simple title to much of the land. And it is because of this range of concepts that we have come to the kind of proposal we have made.

Now, I do also want to make it very very clear that this was a proposal brought together on the basis of our work in order to give everybody a coherent package to deal with. We are not here as advocates. We hope that we are here to assist. We recognize that many of the things we have recommended will not be exactly or even resemble what Congress may ultimately adopt. But by putting it forward

we hope to focus attention on the range of problems and help Congress in this manner.

Senator GRAVEL. Do you feel that the bill drafted by the Interior Department represents the intent or the broad outline of your Federal Field Report?

Mr. FITZGERALD. Yes, I think the Department of the Interior did a very excellent drafting job, reflecting our proposal fully. I recall, one omission. That is the question of the classification of lands by the Secretary of the Interior for subsistence resource use. This is apparently an oversight, and it was omitted, but except for that one omission it seems to me that this is a very excellent and fair drafting job by the Interior Department.

Senator GRAVEL. With respect to that omission in the classification for subsistence. I believe, the utilization of lands, do you feel that this can be covered in another way?

Mr. FITZGERALD. If I may comment a little bit on what the Governor said, the Governor made the point that he believed that the control of these resources largely passes to the State, and that the State would rather that it had control and retained that control and exercised it with respect to the requirements of the native people. I think some arrangement along this point is desirable; that is, between the States ownership of the fish and wildlife resource, and for most of the State, the Federal Government's proprietary jurisdiction over fish and wildlife habitat.

It is very difficult sometimes for people outside of Alaska to realize that with the Federal Government controlling as it does some 97 percent of the land of Alaska, it is terribly necessary for the Federal Government to always be extremely careful in its relation with the State. We should as a matter of policy try to turn over to the State where we can, and back up their exercise of authority in these areas where the Federal Government believes we can do it. And I believe this is one such area, and I strongly urge such a cooperative approach.

Senator GRAVEL. Thank you.

I wonder, sir, if we could not be privy to your views on the Secretary of the Interior's proposals to an outright grant rather than revenue sharing, and the adequacy of $500 million?

Mr. FITZGERALD. We have taken the position—it is in my testimony here today—in the sense that we believe if you have money you can have land, and you can have a combination of money and land in a settlement package. Ultimately, of course, this is a great crucial question for the Congress, how much it shall commit to settlement. What we urge is that whatever is taken, that it be designed to in fact over the long run produce a generous settlement, and that this is more than rhetoric. With a large monetary settlement native peoples of Alaska can through a modern form of corporate management, I think, achieve an independence which they can never achieve in a reasonable period of time in any other way.

I know this does not answer your question specifically, but we have always taken the position that a monetary settlement alone would not work but a settlement with a large monetary part is essential. In our thinking we have just come to the conclusion that this large monetary settlement could best be derived from the land itself—and I would like to make one brief comment on this revenue-sharing concept. Rev-

enue sharing it is in a sense. But what we were trying to do here was something else. We were trying to give the native people of Alaska a percentage interest in the profits of the land for a term of years, on the theory that their claims were to the land, and that we were giving them a modern form of interest in land in savings for a kind of land use which was something of the past, and that this would be an acceptable approach in theory. We also thought it would produce an adequate sum of money. And I must say that at the time I proposed it I was not clear that there would be much objection. I find now that there are problems with it. The Bureau of the Budget is not recommending it.

Senator GRAVEL. Mr. Fitzgerald, I for one am not given to false flattery. But I can say very sincerely that I think that your leadership and the work of your colleagues on the Federal Field Committee has brought forth a body knowledge which is invaluable to the solution of native land claims. Your committee has brought forth the supportive documentation that will provide a basis for agreement on this most difficult and complex problem. And for this, sir, I salute you and your colleagues.

Senator Jordan, do you have any questions?

Senator JORDAN. I yield to Senator Stevens.

Senator STEVENS. Mr. Fitzgerald, as I understand it, your revenue-sharing proposal has, as its keystone, the use of the Naval Petroleum Reserve No. 4. If that disposition, the disposition you suggested of Naval Petroleum Reserve No. 4, is not acceptable to Congress, would you still maintain a position on revenue sharing as opposed to a national sum for compensation for these claims?

Mr. FITZGERALD. I would hope so—what we tried to do in Naval Petroleum Reserve No. 4 was propose a use which did not take it out of its present reserve status, but simply allowed the Secretary of the Interior, the consent of the Secretary of Defense, to lease. And also we provided that there would be a full recapture of the amount of money which the Federal Government has in the past expended in the exploration of the reserve.

Following this, the formula does give 90 percent to the native fund. And so, since it is 23 million acres in the reserve, this obviously could be conceived of as the principal input source of funds for the native funds.

If it were not included, and we have not run on that basis any estimates of how much we think might be derived elsewhere. I think Congress should have that figure. The geological survey in the Department of the Interior is now making an estimate of the value of the resources in the area. I think that it may be able to give Congress some reasonable estimations of the bids and bonus payments that would be received. I think on that basis if Congress did not dish to totally abandon the revenue-sharing concept, it could decide to what extent they should be supplemented.

Of course, as I said before, it may decide to simply go to the total lump sum, in which case we have not tried to give Congress the understanding that we know exactly what the total compensation package would be. As a matter of fact, we have leaned over backward every time to point out that this is in a sense an arbitrary figure. It is one

that comes out of our sense of justice, and what will do the job, rather than out of any mathematical formula. We chose a billion dollar upper limit, recognizing that that might be achieved, but recognizing that it would be very difficult probably for the total money input in that package to be under $500 to $600 million.

Senator STEVENS. Again, my question is, I am sure you know the history of the attempts to restore the Naval Petroleum Reserve No. 4 to public domain, or to eliminate any of the classifications of petroleum reserve anywhere. It goes back to a little instance some of us remember reading about involving a teapot. I am sure you recall that.

Mr. FITZGERALD. I do.

Senator STEVENS. And it has been very difficult to achieve a settlement of the Native land claims, which also involved doing away with one of the four major petroleum reserves of the country, don't you agree?

Mr. FITZGERALD. We were involved previously in discussions through the Federal Field Committee and the President's Review Committee here in Washington in an effort to abolish it. And that is why our proposal does not contemplate the abolition of Petroleum Reserve No. 4, it simply contemplates the opening of it up to leasing. You have oil extraction in other naval reserves today in Wyoming and California, and it could be done here. And if I understand it correctly, one of the principal objections was of course the feeling that a mere cancellation would not recapture the $55 million which the Federal Government spent on the development of Naval Petroleum Reserve No. 4.

I personally very strongly favor, apart from this case, doing something about Naval Petroleum Reserve No. 4, because in the Arctic it is perfectly clear, you cannot get oil production in any quantity out of any field on the North Slope in under 5 years.

Senator STEVENS. I could not agree with you more. But I do not see why we should use the moral and legal case that the Natives of Alaska have for compensation as the vehicle to destroy or open the Naval Petroleum Reserve No. 4. We have a bill in to restore it to public domain. That is a separate issue. My point is that if the Congress does not wish to go along with this, as you call "opening up," and as I say, doing away with the reserve—and that is what it would be if you put it up for leasing in my opinion—where do you come out in terms of your participation formula? Is it not right that the keystone of your proposal was the naval petroleum reserve income?

Mr. FITZGERALD. It is of major import. And I think in fairness, if I were to make a single one-word answer, it would be "Yes."

Senator STEVENS. I feel that is the case, that the Naval Petroleum Reserve is the keystone to your solution, and it is an imaginative one, there is no question about that. But, if we do not deal with the Naval Petroleum Reserve in connection with the Alaskan Native Land Claim bill, do you have an alternative source or suggestion? I remember Secretary Udall's comment about the Outer Continental Shelf—is there an alternative source which would be just as viable economically as far as the Alaska Native is concerned without attacking the reserve?

Mr. FITZGERALD. There are other resources. And it is a question of percentage participation. For example, one of the alternative suggestions which we put forward was the prior selection right to 5

million acres. And this would do it. Also a change in the percentage that the Natives would get from any further leasing on the North Slope if other areas, areas other than Pet 4, could be made to yield it. But I think, as I understand the thrust of the question, sir, it would be correct to say that without Petroleum Reserve No. 4 the revenue sharing on the present formula as we put it forward would be inadequate to produce the funds which you seek to provide to solve this case.

Senator STEVENS. Let us pursue that. The Secretary has suggested and the Bureau of the Budget has agreed to $500 million payable over 20 years. And has, as I understand it, at least double the land proposal that is involved in S. 1830. Now, assuming the conclusion that we have just reached, that the Congress does not wish to transfer Naval Petroleum Reserve No. 4 or allow the revenues to be generated to pay the plan, just assume that, would you agree that $500 million plus twice the amount of land that is invested by this bill is in itself about the equivalent in terms of total settlement as you envisioned in your original suggestion?

Mr. FITZGERALD. No, I do not, sir.

Senator STEVENS. Where does it differ?

Mr. FITZGERALD. I think the difference lies in opinion—and I am sure there is a great deal of difference of opinion on this—I do not think doubling the size around each village, except in one or two cases, possibly, such as inside the Naval Reserve will provide a grant of great monetary value to the Natives. This is why we sought other ways of doing it. We felt that one of the real problems that we could get into is using land grants around villages as a major portion of the settlement. And we think it is terribly important that they have the areas in which they live, and that there be protection of the areas where they hunt and fish, and so on. And all those provisions are in our proposal. But once that is satisfied, a mere enlargement of the area from 36 to 72 square miles around each village might not do much for the people. For example, take Venetic, which is a large reserve. That extra land around does not do the people that live there very much good. And they therefore are one of the poorest groups of Natives in Alaska.

So we have tried to find sources which would generate money rather soon. I think the problem that I see here is whether or not $500 million is the total money package. And to me this is a congressional problem. We do not have any special wisdom. We set an upper limit of a billion dollars. But I could not prove that that is the right figure. That is one that seems reasonable to us, considering the vast number of people involved and the vast extent of land in Alaska that is involved, and the potential worth of the land over a period of years. It is just a judgment figure.

Senator STEVENS. We could go on this for a long time. But I would only say this, that this is a bill to compensate the Alaska Natives for the land that has been taken. If you increase the amount of land that is confirmed to them, then I would say that the only conclusion you can get is that you reduce the compensation for the land that was taken. And it seems to me that that is what Secretary Hickel achieved this morning, was to balance almost with your original suggestion, because he has doubled the amount of land. And up in Mr. Hobson's

area I can assure you that the extra townships are going to be worth something. And down in the mineralized area, the Nome Peninsula, for instance, it is certainly going to be worth something.

Mr. FITZGERALD. I am sure there is a great deal of validity in that, sir. I am sure that the Native people of Alaska by and large are going to be happy with the enlargement of the land area which is proposed.

Senator STEVENS. I wanted to go back to the other thing that I interrupted you on, and I want to assure you that there is nothing personal involved. But, I keep seeing these statements that some politicians want to give all the land that is of little value to the Alaskan Native people. Such statements were made before a conservation organization. I do not think your people do any good by continuing to spread such statements in terms of a hypothetical situation, not unless they can point out to me who is saying it, and then we will go out and take him on. But, no one has identified these people who you say, theoretically, want to turn over areas of no value to the Alaska Native and give him a little money and let him stay as a ward of the United States. I do not know of anyone, Republican or Democrat, in the State of Alaska or outside, who is concerned with this issue who has suggested that. And, if your staff has the names of any people who have suggested it, I for one would like to know. But I am very serious about that, because I just cannot see these strawmen coming out like that.

Thank you very much.

Senator MOSS (presiding). Senator Jordan?

Senator JORDAN. Yes.

Mr. Fitzgerald, I have glanced hurriedly through your report, and I find it very comprehensive. And I do commend you for the thoroughness of your job you did up there. Apparently everyone who testified here has agreed to this: Number one, an essential element is that everyone intends over a 10-year period to put an end finally and for ever, as you put it in your statement, to any rationally defined rights, privileges or institutions with respect to the land of Alaska. You put it there definitely. And I think everyone else who has testified here agrees with you, that when we arrive at whatever settlement we arrive at here, we want it to be a final settlement. And this is your intention I am sure?

Mr. FITZGERALD. Yes.

Senator JORDAN. You break down the nature of the claims into about four categories:

Number one, to provide homes for these people to give them title in fee to the land which they presently occupy, in order to have some tenure in the occupancy of the land covered by their homes and the immediate area surrounding them.

Then I am a little confused by your testimony and the testimony of others when you move on to the second category, to give each village a township or, as was suggested by the Secretary this morning, perhaps two townships, because it seems to me that there is a wide variation in the numbers of people who constitute a village, are there not?

Mr. FITZGERALD. There are. And you could have a formula which is based upon numbers and people. The reason we did not suggest it is a very simple one, that a township, 36 square miles, is a lot of land. But if you are dealing with all the villages in Alaska and you have

the administrative problem of getting them surveyed and getting them deeded to the people, given the history of how we have been getting the land to the people in the past, we felt that we did not wish to recommend to Congress a more refined system. The more refined system would have a greater theoretical justice, but it might be administratively frustrating to the people because it would slow up the process.

Senator JORDAN. Do I understand your plan to mean that not only the surface rights but all the mineral rights would be transferred to——

Mr. FITZGERALD. Yes, with this distinction. We have recommended that the entire mineral rights go to the Alaskan Native Development Corp.

Senator JORDAN. And not to the village?

Mr. FITZGERALD. Yes, and that is for several reasons. One is, the corporation will have skilled management, and they will be able to deal with a situation suddenly where you find oil in that area. And it is much easier for a skilled corporation to deal with it than an individual.

The other thing is that we also were a bit worried about this. We do not know where all the oil in Alaska is and all the places where it might be found. So if you try to keep these as open villages where white people and Natives both live, and where the town itself is run by all the people that live there, and where you are selling off the open and unused land, we thought that the corporation might better protect the Native rights, and speculators might otherwise come in and buy up people's interest and the town land before they knew what the value was, and then we would have a lot of rich speculators rather than the benefit going to the Natives. And that is why we wanted to get a Native corporation.

Senator JORDAN. And all Natives would share equally in the income and the resources of the corporation which you propose?

Mr. FITZGERALD. Yes, they would. Now, if Congress did not wish to do it that way but wished to benefit the people who live in the village, it could still do this and allow the Native corporation to do the management function. And I think from our standpoint, while we recommend that it be done on the basis that we have set forth in our proposal, we think the more critical problem certainly is the one of management.

Senator JORDAN. In your second category you want assurance that those Natives who pursue the old way of life will continue to have access to their fishing and hunting grounds. Under the Administration Act of the State of Alaska did not the management of fish and game pass to the State?

Mr. FITZGERALD. It did.

Senator JORDAN. This, then, is not so much a matter for Federal regulation or even Federal discussion at this time?

Mr. FITZGERALD. Yes. And I think the Governor of Alaska today in his testimony indicated that the State would provide this protection, and wished to do so. And our recommendation would be on the basis of the Governor's wishes and assurances that that approach be adopted.

Senator JORDAN. Then in your third category you plan to compensate the Natives for land or rights to land that have been taken from them in the past, and you arrive at a nice round figure of a hundred million dollars. How did you arrive at that figure?

Mr. FITZGERALD. There are about 85 million acres that have been withdrawn, transferred in the past, and there are about 13 million and some acres that are under selection but have not been transferred to the State. So this is roughly a hundred million acres. We said that 100 million acres priced at roughly a dollar an acre would produce a hundred million dollars, and that this was a reasonable figure to pay for the past.

I think it is terribly important to realize that in dealing with the Native land claims in Alaska, one of the major purposes of this legislation will be to extinguish all Native claims in all remaining public land which have not been withdrawn.

Senator JORDAN. And all rights that might accrue to them in the future?

Mr. FITZGERALD. Yes, all their land rights. So that is where the main bulk of the money was involved here, and why we proposed the 25-percent sharing.

Senator JORDAN. And this is the area where you propose revenue sharing?

Mr. FITZGERALD. Yes, that is, sir.

Senator JORDAN. And thus you break the nature—the whole claim into four distinct categories, as we have outlined here in our discussion.

Mr. FITZGERALD. We thought that it simplified the problem of trying to devise a solution, and it simplified the problem of reaching decisions to divide it this way.

Senator JORDAN. It shows a good deal of thought and justification in a sense for the various legs of your stool here. I think we will take a good look at it. Thank you for your testimony.

Senator GRAVEL (presiding). Thank you, Senator.

Are there further questions?

Thank you very much, Mr. Fitzgerald.

(Subsequent to the hearing the following additional information was received:)

FEDERAL FIELD COMMITTEE FOR
DEVELOPMENT PLANNING IN ALASKA,
Anchorage, Alaska, May 7, 1969.

SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE,
New Senate Office Building,
Washington, D.C.

DEAR SIR: As an extension for the record of Mr. Fitzgerald's testimony before the Senate Committee on Interior and Insular Affairs, the following statement explains what we regard as a preferable method of protecting subsistence resources. You will recall in his testimony he remarked that the drafting service did not include this proposal in Section 13.

"The proposal avoids granting any use rights or easements based upon race. It also recognizes that the management of the resources of the land—particularly fish and game—passed to the State of Alaska at the time of statehood. Those Alaskans, Native or non-Native, who rely upon the sources of the land for their subsistence must then look to the State of Alaska for the management of those resources in such a way that subsistence game and fish are not depleted.

"It is also recognized that for many years to come Alaska Natives and other subsistence users will go upon the public domain as they do at present, for

the purpose of taking this fish and game. There is a responsibility in making a full settlement of Alaska Native Land Claims, however, to protect with whatever means are available to the federal government, those subsistence uses. The proposal empowers the Secretary of the Interior to declare an area under his jurisdiction closed to entry for hunting and fishing purposes by persons other than those in a given locality. The proposal includes consultation with the people and Alaska Fish and Game Department before such an emergency closure is made. Then, in order to prevent the establishment of permanent reserves the proposal limits such a closure to two or three years. This does not recognize, however, that state selection of the land, mineral patent to the land, or mineral lease of the land and its attendant operation, may remove these lands from the control of the Secretary of the Interior. It is proposed, therefore, that areas surrounding villages whose inhabitants are now dependent upon subsistence resources be classified as subsistence-use areas. Each classification should take into account other uses, and each classification should specify other uses other than subsistence hunting or fishing that are permitted in the area. Then if it becomes necessary to close an area to hunters, fishermen, and trappers who are not residents of the area, the classification will already have been made, the lands already will have been designated, and all that will be required will be "Notice" by the Secretary that the lands are closed. These closures should be limited to two or three years, and the classification should itself be limited to no more than the ten years of the Act."

To accomplish this purpose we suggest that the following language be substituted for Section 13 of S. 1830:

"(a) The Secretary is directed to classify, in accordance with ecological criteria, varying environmental circumstances and varying subsistence needs, lands surrounding any or all of the villages for which lands have been withdrawn under Section 8 of this Act as subsistence use units.

"(b) The lands to be classified may be from the federal public domain or from any other federal lands in Alaska under the Secretary's jurisdiction.

"(c) The Secretary in preparing such classifications shall hold public hearings within the proposed classification units and shall consult with the State of Alaska and other appropriate departments of the federal government and invite the comments of all parties concerned. Upon determining the lands and resources required for subsistence use in each area, the Secretary shall publish notice in the Federal Register of a proposed classification which shall have the effect of segregating such lands from disposal under the public land laws or other laws of the United States including mining and mineral leasing laws: Provided, however, one or more forms of disposal under the public land laws, mineral leasing laws or other laws of the United States may be excepted from the segragative effect of the classification. Any segregation effect of the classification shall be subject to review at the end of five years. but the Secretary may initiate an earlier review upon petition by residents of, or request from a local governing body within, the classification unit.

"(d) After an area has been classified as a subsistence-use unit and final notice thereof has been published, the Secretary may, upon petition by residents of, or request by a local governing body within the unit, and upon the concurrence of the State of Alaska, determine that the health, welfare or livelihood of residents of the unit are threatened by the depletion of subsistence resources. Upon such a determination, the Secretary may close the area to entry by persons for the purpose of fishing, hunting, and/or trapping other than by residents of the unit for subsistence purposes.

"(e) The maximum duration of such emergency closure shall be two years unless, after a public hearing, the Secretary determines the closure should be extended for an additional two-year term.

"(f) Any person entering upon lands within a subsistence-use classification unit closed under the provisions of this section, for the purpose of hunting, fishing, or trapping in violation of said closure, shall be guilty of a trespass against the United States and shall forfeit any tackle, gear, arms, vehicle, boat, or aircraft used in the violation, and shall also be subject to a fine of $1,000 or one year imprisonment or both."

Sincerely yours,

DAVID M. HICKOK,
Natural Resources Officer.

Senator GRAVEL. We will make an attempt to finish up the testimony today, and I think we are not too far from the end.

I would like to call on my good friend Frank Degnan, the president of the village council of Unalakleet.

Mr. Degnan, would you also introduce your colleagues.

STATEMENT OF FRANK A. DEGNAN, PRESIDENT OF THE VILLAGE COUNCIL OF UNALAKLEET; ACCOMPANIED BY ADELINE KATONGAN, TREASURER, NATIVE VILLAGE OF UNALAKLEET; AND FRANCES A. DEGNAN, MEMBER, NATIVE VILLAGE OF UNALAKLEET

Mr. DEGNAN. Frances Degnan as a member, and Adeline Katongan, as a secretary. These are legal members of the Task Force to come down here and report to you. And I have the responsibility when I go back to tell our people we were here. And you were here to give us this time and express ourselves.

Senator GRAVEL. Will you proceed with your testimony.

Mr. DEGNAN. I am very happy to be here. And we elected Mike Gravel, and we also elected our senior Senator, Ted Stevens.

Do you know at one time we had a land squeeze and that land squeeze happened 40 million years ago? That was the biggest squeeze the world had ever known. It extended clean down to Utah.

We are the Aborigines, we are the first Inupiat that homesteaded the top of the world. That is Alaska. Inupiat means "real people." And I do not know where this Eskimo originated, probably back over in England.

We are here now to come before you. We have two resolutions. And we would like to have these inserted in your record, because we do not have the time or the connections, we are isolated.

At one time, 10,000 years ago, we had 4,000 Inupiats in Alaska. We have the pictures and the anthropologists to show it. But my history came down from my mother, which goes back 10,000 years. According to the anthropologists, the Degnan Tribe was there 7,500 years ago. But we have no written time check on anything. We have what you would call handed down from one generation to the other for that many thousands of years. But a thousand years mean nothing to us. It could mean history.

Now, we want to take a little time to get these inserted in your files. We only had 48 hours to make out a brief—Ted Stevens called up and requested that we should be doing something at these meetings, so we came with that information. But we are not attorneys, and our attorneys confuse us, they have to come to us to find out where we originated from, and then they go out and get 10 percent—they get paid first. We the original owners are not the work horses, we just live here. We conquered—back when the Roman Empire conquered the known world, we conquered the unknown world. The only instrument we had to fight with was love. And if you had that today you would not have this problem now.

There is another thing that you have to remember. You talk about the percentage and the money values. Now, if we could come right

down to it, if we could all share poverty together, I think we would be more unified. When you get rich people, they have to make a change.

And I want to thank you.

Will you go ahead and read the statement. I will not take up any more of your time.

We paid our own way. We were broke. No one financed us. We have no attorneys. These resolutions were made by those two girls here, college educated, excellent students. You hear a lot about them.

Senator GRAVEL. Your letter will be printed in full in the record at this point.

(The letter referred to follows:)

NATIVE VILLAGE OF UNALAKLEET,
Unalakleet, Alaska, April 22, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

HONORABLE CHAIRMAN AND MEMBERS OF THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE: The Native Village Council of Unalakleet, Alaska acting in behalf of the Native Village of Unalakleet and the Land Claims Commission comprised of the Native Villages of Koyuk, Shaktoolik, Unalakleet, St. Michael and Stebbins, Alaska does hereby authorize the following Native delegation to attend the abovementioned Land Claims hearings as true representatives of the Native peoples residing in the abovementioned villages:

Mr. Frank A. Degnan, President of Unalakleet Village Council
Miss Adeline Katongan, Treasurer of Unalakleet Village Council
Miss Frances A. Degnan, Member of Unalakleet Native Village

We hereby authorize our appointed delegation to deliver our testimony and present our case to the Senate Interior and Insural Affairs Committee and the United States Congress.

The Unalakleet Native Village Council presents the following testimony to the delegation to deliver to the United States Congress:

We, the first citizens of this great land called the United States of America, do hereby call upon the conscience of the duly elected representatives of all people of the United States of America to listen to our plea.

We have always lived as a peaceloving people—we welcomed all strangers and travelers to our great land with open arms and trust. We provided food and shelter to all who came. We lived with no fear of the future as we had nothing to fear for we had conquered the cold harsh land you now know as Alaska.

This land was our life. And it was good to us. We knew we could survive as long as the fish, the seal, the ducks and all vegetation and game came in season as they have done for centuries. Through verbal history handed down from generation to generation, our forefathers told us that we were a strong, proud, happy and peaceloving people. So we met all people with a smile and love in our hearts.

We are now living in the Space Age and are part of one of the world's greatest nations. And a nation who has taken the task to help all mankind. In order to be a working part of this great nation of ours we must get rid of poverty, disease, illiteracy and confusion that plagues our Native people.

In our own area—namely that of Unalakleet we have done our best with very little finances and will so continue, to upgrade our community both physically and morally. We have been able to electrify each home, bring in running water and sewage disposal facilities to better the health conditions of the residents. Not only have we better sanitation but we have provided some employment for a few of our people. These are all a necessary part of living. This is just a small step forward and we realize we cannot compete in the American Way of Life without finances and also better education for our people.

Today, we are here, at our Nation's Capitol, as delegates of our people, the Eskimo, to present our case to our Great White Father who has taken care of us and our children during the 20th Century. We, today, realize that we must let you know our wishes.

We, as a simple people, declare that we want a fair and just settlement of our aboriginal land claims in that we want to have title to all of our lands which we know we legally and morally own. These lands are those which we as

aborigines of Alaska and North America have used for centuries for subsistence, hunting, fishing and trading.

If we gain or are granted title to the lands we have claimed in Docket No. 285 for the Unalakleet and Unaligmut-Malemut Eskimos in the area embracing Koyuk, Shaktoolik, Unalakleet, St. Michael and Stebbins now pending before the Indian Claims Commission, we strongly believe we will be able to meet the health, welfare, educational and economic needs of all Eskimos.

We also desire all the mineral, gas and oil rights beneath the surface of the lands claimed. We desire to be able to contract with the Free World to drill and mine on a percentage basis. We would give a fair share to the United States Government and the State of Alaska.

Thus we would have the finances to construct and maintain hospitals, schools and colleges. We would be able to meet the economic needs of the peoples in our area through development of our natural resources which we have on our lands. Therefore we will have a chance to become full and better participating citizens of our Great Nation and not just poverty stricken dependents.

Another reason for our wanting to have and hold our aboriginal lands is that the total world population in the year 2000 will be 6 billion and we want to remain in our own country and have the freedom we enjoyed in the past to continue into the year 2000. Freedom to hunt and fish and also to do business with our gas, oil and mineral rights and any other natural resources within our claim with the approval of the United States Government.

This is what we are requesting and we have faith that you will consider our wishes and enable the aborigines of Alaska and the North American Continent to become progressive and full participating citizens of the Universe.

Respectfully Submitted.

FRANK A. DEGNAN, *President.*
FRANCIS SOXIE, *Vice-President.*
HELEN LOCKWOOD, *Secretary.*
MISS ADELINE KATONGAN, *Treasurer.*
ALFRED NANOUK, *Councilman.*

Senator GRAVEL. Thank you. I commend you on your statement, and on your initiative in traveling from Unalakleet to Washington, D.C., to deliver it in person. It certainly will not fall on deaf ears.

Do you have any added comment you wish to make?

Mr. DEGNAN. No, sir.

Senator GRAVEL. Any questions, Senator Jordan?

Senator JORDAN. No questions, but my compliments to each of you for a very fine presentation of a most impressive statement. You do not need spokesmen to speak for you, you speak very well for yourselves. And this is the kind of testimony that this committee likes to have. Thank you very much for coming down and giving us this testimony.

Senator GRAVEL. Senator Stevens?

Senator STEVENS. We are happy to have you and the young ladies here with you.

I commend you on your statement and for your initiative. When you sent me a wire I did not know you would be here in person. But we are happy to have you down here. And it is a fine statement.

Mr. DEGNAN. Thank you.

Senator STEVENS. I would like to know one thing. You mentioned the Indian Claims Commission docket.

Mr. DEGNAN. 285. When the President of the United States made the proclamation in 1946 I happened to be chairman, and they threatened us, they said that if we did not file a claim and report it with the Commission we would be finished for. So we thought it was just like that. And so we got busy and hired lawyers, and we are still coming back.

Senator STEVENS. That has been pending some 2 years?

Mr. DEGNAN. That is right.
Senator STEVENS. Thank you very much.
Mr. DEGNAN. Could we read our resolutions?
Senator GRAVEL. Certainly.
Miss KATONGAN (reading):

RESOLUTION 69–5

Whereas, the Native Village Council is the governing body of the Native Village of Unalakleet, and

Whereas, the Native Village of Unalakleet has expressed for many years the dire need for hospital facilities in the Native Village of Unalakleet, and

Whereas, the United States Public Health Service and the State of Alaska have provided medical facilities in the larger population areas for the Native people for many years, and

Whereas, the Village Council is desirous in obtaining hospital facilities to meet the health and welfare needs which would upgrade the health and economic conditions of the people of Unalakleet and all the surrounding villages in North Western Alaska, and

Whereas, emergency cases must be transported by commercial scheduled airlines or charter to PHS hospitals in Nome, Kotzebue or Anchorage and lives are in jeopardy when this occurs and many lives would be saved if a hospital were located in Unalakleet: Now, therefore, be it

Resolved, That the Unalakleet Village Council request the Federal Government and the Public Health Service to construct or obtain facilities for a hospital in Unalakleet; and be it further

Resolved, That the Unalakleet Village Council be granted the first priority in obtaining the United States Air Force site located at Unalakleet which has been inactivated to be used by the Public Health Service as a hospital facility to serve the desperate health needs of all peoples in Unalakleet and Northwest Alaska.

CERTIFICATION

I, the undersigned, hereby certify that the Village Council is composed of five members, of whom four constituting a quorum were present at a meeting duly and regularly called, noticed, convened and held this 22nd day of April, 1969: that the foregoing Resolution 69–5 was duly adopted at such meeting by the affirmative vote of members, and that said Resolution has not been rescinded or amended in any way.

Dated this 22nd day of April, 1969.

(Signed) FRANK A. DEGNAN,
President, Village Council.

Attest:

ADELINE R. KATONGAN,
Acting Secretary, Village Council.

RESOLUTION 69–4

Whereas, the Native Village of Unalakleet has expressed the growing need of a four year high school with boarding facilities in the Native Village of Unalakleet for many years, and

Whereas, the Village Council is the governing body elected to represent the needs of the people of the Native Village of Unalakleet as provided in the Constitution and By-Laws approved by the Secretary of Interior, incorporated under the Act of June 18, 1934, as amended by the Act of May 1, 1936, and

Whereas, the Native Village of Unalakleet requests adequate educational facilities with the added interest and concern in educating youth in the outlying villages hence providing educational advantages closer to their homes, in order that they may help promote the poverty areas toward initiative standards thus preparing for future responsibilities producing within our own area respected citizens of our communities, States and Nation, and

Whereas, the Native Village of Unalakleet has available utilities, instant and daily communications to provide for the proper function and operation of such institution in a feasible manner, and

Whereas, the abandonment of the United States Air Force site in Unalakleet may provide some or all facilities toward this concern: Be it therefore

Resolved, That the Native Village of Unalakleet be at the mercy of the United States Government and the Bureau of Indian Affairs to help establish programming of adequate educational and gymnasium facilities for the people to the best advantage of the Northwestern Alaskan area ; and be it further

Resolved, This is a humble request for the Native Village of Unalakleet by the Village Council where need has been voiced by the people for many years.

CERTIFICATION

I, the undersigned, hereby certify that the Village Council is composed of five members, of whom four constituting a quorum were present at a meeting duly and regularly called, noticed, convened and held this 22nd day of April, 1969 : That the foregoing Resolution 69-4 was duly adopted at such meeting by the affirmative vote of members, and that said Resolution has not been rescinded or amended in any way.

Dated this 22nd day of April, 1969.

(Signed) FRANK A. DEGNAN,
President, Village Council.

Attest :

ADELINE R. KATONGAN,
Acting Secretary, Village Council.

Senator GRAVEL. I think that is an excellent suggestion, and it certainly will be followed up.

Do you have any additional resolutions ?

Mr. DEGNAN. That is all we have. In 24 hours we had to do something.

Senator GRAVEL. You did a very fine job. Thank you very much.

Next I would like to call on Mr. John Pickering, attorney for the Western Oil & Gas Association.

Would you have any objections to your entire statement being inserted in the record and at this time just covering the high points for the committee ? Would this be acceptable to you, sir ?

STATEMENT OF JOHN PICKERING, ATTORNEY, REPRESENTING THE WESTERN OIL & GAS ASSOCIATION

Mr. PICKERING. Mr. Chairman, no objection at all. I was prepared to make that suggestion myself, in view of the lateness of the hour.

Senator GRAVEL. Thank you. You are very considerate.

Mr. PICKERING. I am an attorney practicing in the District of Columbia. And I appear here on behalf of Western Oil & Gas Association to state its position on legislation to settle the Alaskan Native claims.

To summarize the detailed statement, we support, along with all the other witnesses who have testified here today, prompt, fair and comprehensive legislative resolution of the Alaskan Native claims.

As the committee knows very well, settlement of these claims is a complex matter. The detailed provisions of S. 1830 make that clear. Many of those provisions are of no concern to us, and are more appropriately left to the comments of those directly affected by them. That is particularly true of what the formula should be for a fair and equitable settlement. We have no suggestions to make concerning that. We are not urging, for example, either the Federal Field Committee recommendations or Mr. Hickel's testimony this morning. These are matters for the Congress to decide in its judgment, and we have no position.

Our concern is directed to three matters on which we think we have some constructive suggestions to offer. And they are generally in the interest of having a full and final settlement of the claims, a matter which the chairman and Mr. Justice Goldberg emphasized this morning.

The first of these is the need for a comprehensive description of the native claims which are being settled. And we hope to have the problem settled once and for all. And for that purpose we think that the provisions in section 3(a) of S. 1830 could be improved in three respects.

First we think that the settlement should extend not only to the benefit of the United States, but all those to whom the United States has in the past transferred or granted interests in land, such as the State mineral lessees and so on, for which taking the natives will of course be compensated by the provisions of the bill.

The second element that we think should be covered is the fact that we note some of the claims relate to water areas as well as to lands. Accordingly we feel that the description of the claims should cover water areas as well. The State of course received the submerged lands grant by the terms of the Statehood Act, and in addition, the United States retained the title to the Outer Continental Shelf submerged areas.

The third aspect in which we think the description of the Natives' claims which are being settled and extinguished could be improved is with respect to the acts which are cited as the basis of the claims. The two acts cited in the bill, the acts of 1884 and 1900, are the acts generally referred to as affording protection for native claims of use and occupancy. But if you start looking through the statutes there could be a number of others, some of which are cited in our statement, including even the treaty of cession itself. And we think there should be a broad description of that.

That brings me to the second point of interest, which is the desirability of having appropriate provisions in the legislation for existing Federal and State mineral leases. The land grants to the natives must of course be made subject to valid existing rights, and all proposals to date, including S. 1830 have so provided.

There are problems, however, because the effect of a valid existing right—the meaning of that phrase can depend on the nature of the right itself. Some rights do not necessarily bar a grant, and others do, because the United States has nothing left to grant. And for that reason, where it has intended to grant land covered by Federal mineral leases, the statutes have generally spelled out provisions making that clear, and stating what happens to the leases.

Because of the ambiguities and questions which otherwise arise, we think that the same practice should be followed here, by including in the legislation provisions which would make it clear that Federal mineral leases, although they are valid existing rights, do not operate to bar a grant to the natives of the lands which are covered thereby, which would further specify that the Secretary of the Interior would continue to administer the existing leases for their duration, and would give to the Natives whatever share Congress deems appropriate of all, or part, if only part of the land is granted, of the lease revenues which are reserved to the United States.

Some idea of the importance of including appropriate provisions along these lines is indicated by the latest published figures of the Bureau of Land Management, which show 4,290 Federal mineral leases outstanding in Alaska for a total of some 7.9 million acres.

With respect to State mineral leases, however, the situation is different, because the United States has parted with the land. There are basically two kinds of land which the State can grant leases on. The first is land which has been patented or granted. And that patent or grant is a valid existing right which bars a grant of the same land to the natives.

The same is also true of approved State selections which section 6(g) of the Statehood Act authorizes the State to lease following tentative approval by the Secretary, and prior to the issuance of final patent.

That was done in the Statehood Act as it was in the prior Alaska Mental Health Enabling Act to permit the State to deal with the land without waiting for the time needed to make the surveys which are necessary for the final patent. And before tentative approval is given, the regulations require that there be a determination that there is no bar to passing legal title to the land, to the State, other than the need for a survey. And as the Federal Field Committee states in its report, tentative approval creates the jurisdictional transfer.

There is therefore no need, we think, in the legislation to spell out how State leases would be handled, because they would remain with the State.

Again, an indication of the importance of recognizing the differing natures of the valid existing rights and their effect on native land grants comes from the fact that the Federal Field Committee has reported that the State has received patents to some 5.4 million acres of land through 1967, and has received tentative approval for another 8.5 million.

As we read the provisions of S. 1830, it is generally in accord and carries out the suggestions which I have been highlighting here. There are a few questions which we think need further clarification, but they are covered in the statement, and I will not go into them at this time. The general premise would be that the patent to the natives would be subject to existing contracts, leases, and permits, with that being spelled out. And the other premise of the legislation is that the State would receive patents to its selections, and the natives would receive compensation for that land.

In addition, there are a couple of other places in the bill where we think reference should be made to valid existing rights, the withdrawal provisions of section 8(d), and in the provisions dealing with the Moquawkie Reservation in section 15. Section 16, which deals with the revocation of other reserves, makes the revocation subject to valid existing rights. And we think the same provision should be made with reference to either the grant or the revocation of the Moquawkie Reserve.

Our third point is the need for some authority in the legislation to grant easements for public purposes. The size of the land grants which may be made to the natives, and the landlocking which may result, make it important for this legislation to include that authority so that the Secretary may create easements which are necessary in the public

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interest to permit the appropriate utilization of Federal and State land.

We suggest that as a minimum the legislation should contain the provisions for that purpose which were included in the bill proposed last year by the Department of the Interior, S. 3586 of the last Congress, and in the revision of that bill endorsed by the Alaskan Federation of Natives, which was S. 3859.

To that language we would recommend adding the words, "or lands owned by the State of Alaska." to make it explicit that the authority to create easements in the public interest would include the creation of easements needed for the administration of State as well as Federal lands.

In addition, we think that consideration should be given to the possibility that authority might be reserved to create easements in the future. It is hard to foresee all of the needs. And we appreciate that it is a very difficult thing to draw a proper statute or proper authorization which would not impair the value of any grants, but we think it should be focused on, and we have made some suggestions in the detailed statement.

The time available for study of S. 1830 has of course been short. It may be that we will have additional suggestions or refinements to submit after further study, and with the benefit of the views expressed by others at these hearings.

In that connection, we note the very constructive statement which the chairman made this morning, that the participants in these hearings would be called back for further presentations in the course of this legislative adjudication. And we will of course be happy to participate in that.

Our statement covers a couple of other matters which are not of direct interest to us in the legislation which we point out seems to require some clarification, some of which is also covered, I know, in the departmental report this morning.

There is one thing I would like to mention before closing, which I skipped over in summarizing the statement. There is a provision in S. 1830 which we find quite anomalous, and which we believe would be beyond the power of the Secretary. And that is the provision in section 10(j), which would direct him to extinguish valid existing rights where they conflict with the grants to the natives.

I note that the departmental report says that the Secretary should not have this authority, and I doubt very much that that authority could be given. Negotiation might be possible, but in place of that we would suggest that that language be deleted, and that some definition of valid existing rights and their effect be spelled out in the legislation.

This concludes my summary, Mr. Chairman. We thank you very much for the opportunity to present these views on this important legislation which we hope will move forward as promptly as possible. We wish to play a constructive part in that process.

Thank you, Mr. Chairman.

Senator Gravel. Mr. Pickering, I want to thank you for your significant contribution.

The absence of any questions on my part is not indicative of lack of interest. It is more a compliment in the sense that this is a highly technical document, and certainly should be studied assiduously by

the attorneys on the staff. I am sure that there are many areas of contribution.

Mr. PICKERING. In an effort to be constructive we have tried in the appendixes to suggest changes in legislative language keyed to S. 1830 to carry out our suggestions. We realize of course that as the legislation takes shape, and if you would shift from one type of compensation to another, modifications of that language would be in order. And we would be happy to work with the staff in any way that we can to the end of getting a good bill that will leave no uncertainties or loose ends for controversy in the future. We want and support the full and final settlement of this important issue.

Senator GRAVEL. Sir, I am sure the staff will be in contact with you as we proceed into the markup phases of the legislation. And I can only compliment you for the initiative you have taken.

Mr. PICKERING. Thank you, sir.

Senator GRAVEL. And as I stated previously, your prepared statement will be printed in full.

(The statement referred to follows:)

STATEMENT OF JOHN H. PICKERING, ATTORNEY, REPRESENTING THE WESTERN OIL & GAS ASSOCIATION

My name is John H. Pickering. I am an attorney practicing in the District of Columbia, and I am appearing on behalf of Western Oil and Gas Association to state its position on legislation to settle the Alaskan Native claims. The Western Oil and Gas Association is a petroleum trade association whose members are active in production, refining and marketing operations in the six far western States of California, Arizona, Nevada, Oregon, Washington, and Alaska. Its members account for approximately 85 percent of the production and 90 percent of the refining and marketing in those States. In Alaska they account for 100 percent of that State's oil production, which now stands at about 195,000 barrels per day.

We support a prompt, fair, and comprehensive legislative resolution of the Alaskan Native claims. Settlement of these claims has been postponed, time and again, for almost a hundred years and should be deferred no longer. Further delay in the enactment of appropriate legislation, and the consequent continuance of the land freeze and the formal withdrawal made by Public Land Order 4582 to preserve the status quo pending a legislative settlement, is detrimental to everyone—to the Natives, to the fiscal stability and economic development of the State of Alaska, and to the public generally. We are therefore glad to join in urging that legislation be enacted during the current Congress to settle the matter.

Legislation settling the Alaskan Native claims is a complex matter, as the detailed provisions of S. 1830 show. Most of those provisions do not concern us and are more appropriately left to the comments of others who are directly affected by them. This is particularly true of the formula for a fair and equitable settlement. The compensation to be paid by the United States to the Natives for settlement of their claims, in terms of how much land should be granted, how much money should be paid, and what revenue sources should be tapped for that, are matters which primarily concern the Natives, the United States, and the State, and are to be decided by Congress which has, of course, complete power to grant as much, or as little, compensation as it sees fit.[1] We accordingly do not presume to make suggestions concerning the terms of settlement, especially since we have no particular information or competence for so doing. The report of the Federal Field Committee for Development Planning in Alaska is an impressive study of the matter, and its suggestions for a fair settlement, embodied in S. 1830, are imaginative. But we are not urging them over any oother formula which may be suggested by the Natives, the Department of the Interior, or the State and which may commend itself to the Committee and the Congress as fair and equitable.

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[1] *Tee-Hit-Ton Indians* v. *United States*, 348 U.S. 272, 278–82 (1955) ; *United States* v. *Santa Fe Pacific R. Co.*, 314 U.S. 339, 347 (1941).

Our statement is limited to three matters which are of direct interest to us and on which we think we do have some constructive suggestions to offer. These three specific points are:

1. Comprehensive description of the Native claims which are being settled and extinguished.
2. Appropriate provisions for existing Federal and State mineral leases.
3. Authority for granting easements.

I shall discuss each of these points in turn, both generally and with specific reference to S. 1830. We have also prepared, as appendices to this statement, draft changes to S. 1830 which would implement our suggestions on these three points, and we would like to submit them for what help they may be to the Committee.

I. COMPREHENSIVE DESCRIPTION OF THE NATIVE CLAIMS WHICH ARE BEING SETTLED AND EXTINGUISHED

It is obviously desirable for the legislation to effectuate a complete settlement and extinguishment of the Native claims. Loose ends and uncertainties should not be left for subsequent resolution, and no basis should remain for asserting any of those claims in the future against anyone. Achievement of this objective requires a careful and comprehensive description of the claims.

Secton 3(a) of S. 1830 is a good beginning in this regard, but it should be improved in three respects:

First. The settlement should specifically extend, not only to the United States, but also to the State of Alaska and all other persons to whom the United States has granted, sold, or leased lands claimed by the Natives. The Native claims are moral claims, not enforceable legal rights, to land. When lands claimed by the Natives are "taken" by the United States, either for its own use, or by transfer, sale, or lease to third parties, the Native claims to those lands are extinguished, and the Natives then have a moral claim to compensation for the loss. As the Federal Field Committee has pointed out, that claim, like the claim to the land itself, "is against the federal government".[2] It is not against the third parties to whom the United States has transferred the lands or interests therein. Congress has unfettered discretion to deal with these moral claims, both for land and compensation, as it thinks best, but it is generally agreed that the Natives should be fairly compensated, both for the lands which have been previously taken, and for the remaining claims which will be extinguished by the legislation. That, of course, is a basic purpose of S. 1830 which will provide compensation for past takings and present extinguishment. The necessary effect of that will be to leave no basis for asserting the Native claims against the United States or anyone else. Nevertheless, we think it desirable to spell this out clearly in the legislation by providing that the settlement extends to the United States and all other persons, which will include the State of Alaska, mineral lessees of the United States, and anyone else to whom the United States has granted any interest in lands claimed by the Natives. There will then be no possibility for future dispute.

Second. Some of the Native claims purport to cover waters in addition to land areas. Accordingly, in order to effectuate a complete settlement, the claims should be extinguished to water, as well as to land, areas. This is true both generally and for submerged areas beneath navigable waters in particular. As the Court of Claims held in the *Tlingit and Haida* case, navigable waters "are not subject to private possession."[3] Title to submerged areas beneath navigable waters is either in the State of Alaska under the grant made to it by the Submerged Lands Act (67 Stat. 29) as made applicable by the Statehood Act (72 Stat. 343), or in the United States under the Outer Continental Shelf Lands Act (67 Stat. 462). As the Federal Field Committee states in its report, ". . . the Statehood Act extinguished any personal proprietorship and vested general ownership of lands beneath navigable waters in the state."[4]

In view of this, it would be unfortunate if the legislation overlooked settling the Native claims to waters and thereby left open the possibility that such claims might be asserted to water areas in the future.

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[2] *Alaska Natives and the Land* (October, 1968), p. 537. See also *Village of Kake* v. *Egan*, 369 U.S. 60, 65–66, 69 (1962).

[3] *Tlingit and Haida Indians* v. *United States*, 182 Ct. Cl. 130, 145, 389 F. 2d 778, 788 (1968). See also *United States* v. *Holt Bank*, 270 U.S. 49 (1926), and *Hynes* v. *Grimes Packing Co.*, 337 U.S. 86 (1949).

[4] *Alaska Natives and the Land* (October, 1968), p. 538.

Third. The Native claims are based on asserted use and occupancy. The legislation should broadly cover all such use and occupancy claims, not just those based upon claims of aboriginal title or the provisions of the Acts of 1884 and 1900 as provided in section 3(a) of S. 1830. The 1884 and 1900 Acts are the ones usually considered as affording protection for Native claims based on use and occupancy, but other statutes could be invoked such as the Act of March 3, 1891 (26 Stat. 1095) or the Act of May 1, 1936 (49 Stat. 1250), and there are doubtless others. The Treaty of Cession itself might be cited.[5] Accordingly, if the legislation is to accomplish the intended purpose of settling the Native claims once and for all, it should not cite just the Acts of 1884 and 1900, but should refer to any other statute or treaty of the United States.

Appendix A to this statement contains a suggested revision of section 3(a) of S. 1830 which would strengthen it in these three respects which have just been discussed.

II. APPROPRIATE PROVISIONS FOR EXISTING FEDERAL AND STATE MINERAL LEASES

Land grants to the Natives must, of course, be "subject to valid existing rights", and all legislative proposals have so provided, including S. 1830. The United States cannot impair rights which it has created, nor can it grant what it no longer controls. Outstanding Federal and State mineral leases are among the "valid existing rights" which are thus protected. However, further legislative provisions are needed since lands covered by Federal mineral leases can be granted to the Natives, if proper authority to do so is given, while lands covered by State mineral leases cannot be granted.

The bare phrase, "subject to valid existing rights" is somewhat ambiguous. because it has different meanings depending upon the nature of the particular right involved. Some kinds of rights operate to bar grants of the lands covered by them, for the United States has effectively parted with the lands. Examples of rights of this kind include grants, patents, and approved State selections. In other types of rights, the United States still has a retained interest which it can grant if appropriate provisions are made for the outstanding rights. These differences require different treatment in the legislation for Federal and State mineral leases, as follows:

A. Federal mineral leases

A Federal mineral lease is an example of the kind of valid existing right which does not necessarily bar the grant of lands. When the United States issues a Federal mineral lease, it retains the basic fee, as well as the lessor's interest, in the land leased. It thus has an interest in the land which can be granted, burdened with the lease. However, the phrase "subject to valid existing rights" gives rise to ambiguities and questions such as: is it intended to grant land covered by a Federal mineral lease, how is the lease and how are the rights reserved to the United States as lessor to be handled, what happens if only part of the land covered by a lease is granted, and so forth.[6]

Because of these ambiguities and questions, the practice has been to spell these matters out in legislation where it is intended that land covered by a Federal mineral lease may be granted.[7] That practice should be followed in the legislation settling the Native claims by including provisions which would—

(1) make clear that Federal mineral leases, although they are valid existing rights, do not operate to bar a grant to the Natives of the land covered thereby;

(2) specify that the Secretary of the Interior will continue to administer such leases for their duration if the land covered thereby is granted; and

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[5] There is still, for example, an unresolved split of authority over whether the Native claims survived this Treaty with Russia (15 Stat. 539). The Ninth Circuit held in *Miller* v. *United States,* 159 F. 2d 997, 1001–02 (1947), that Russia extinguished aboriginal title as part of the consideration for the Treaty. However, the Court of Claims reached a contrary conclusion in *Tlingit and Haida Indians* v. *United States,* 147 Ct. Cl. 315, 333–34, 177 F. Supp. 452, 463–64 (1959), holding that the aboriginal title of those particular Indians had not been extinguished by the Treaty.

[6] The Solicitor of the Department of the Interior has ruled that, unless statutory authorization is given, the Secretary cannot assign his jurisdiction over Federal leases or the interest of the United States as lessor. See Solicitor's opinions M–36254 (Dec. 28, 1954), M–36436 (May 9, 1957), and Supplement to M–36436 (April 14, 1958).

[7] Examples of such legislation include: the Act of September 14, 1960, 74 Stat. 1024, amending R.S. 2276 (43 U.S.C. 852(a)) and section 6(h) of the Alaskan Statehood Act; and the Act of July 14, 1956, 70 Stat. 546, and the regulations under that Act in 25 CFR § 171.1a.

(3) give to the Natives whatever share Congress deems appropriate of all (or part, if only part of the land covered is granted) of the lease revenues reserved to the United States.

The importance of including provisions along these lines in the legislation, and thereby avoiding the ambiguities and questions which have been mentioned, is underscored by the fact that the latest published figures of the Bureau of Land Management show 4,290 Federal mineral leases covering some 7.9 million acres of public lands in Alaska.[8]

B. State mineral leases

The situation with respect to State mineral leases is different, however, because the United States has parted with the land. This, of course, means that the United States has nothing left to grant to the Natives, either burdened with the State leases or otherwise, and makes it both unnecessary and inappropriate to include any provisions in the legislation for handling State leases similar to those which are required for Federal leases.

The State of Alaska may lease land which has been patented or granted it. Once land has been so patented or granted to the State, the United States no longer has any title, and the patent or grant is a "valid existing right" which bars a grant of the land to the Natives.

The same is true of approved State selections which section 6(g) of the Statehood Act specifically authorizes the State to lease and to sell conditionally following the selection "and the tentative approval of such selection by the Secretary of the Interior or his designee, but prior to the issuance of final patent". The purpose of this provision is to permit the State to dispose of its approved selections without having to wait for the lengthy time needed to complete the surveys which are required before final patent can be issued. This provision was taken from section 202(d) of the previous Alaska Mental Health Enabling Act (70 Stat. 709),[9] which the Department of the Interior explained as follows:

"The Territory would be authorized specifically to lease or make conditional sales prior to the issuance of a final patent by the Secretary, in order that the Territory's disposition of the land would not be required to be deferred until surveys are completed." H.R. Rep. No. 1399, 84th Cong., 1st Sess. (1955), p. 13.

The regulations carry out the purpose of this section 6(g) by providing that tentative approval is to be given only after "determining that there is no bar to passing legal title to the lands to the State other than the need for the survey of the lands or for the issuance of patent or both" (43 CFR 22229–4(d)). As the Federal Field Committee states: "Tentative approval creates a jurisdictional transfer. . . ."[10] The rights of the State are vested at that time, if not before.[11] The fact that naked legal title still remains in the United States until the issuance of patent accordingly cannot be the basis for a grant to the Natives.[12]

The extent of the patents and tentative approvals which have been issued demonstrates the importance of recognizing in the legislation that the State's grants, patents and tentatively approved selections (and as a result any State leases issued thereon) are valid existing rights which bar granting the lands to the Natives, and leave the Natives instead with a moral claim against the United States for any "taking" resulting therefrom. According to the Federal Field Committee, through 1967 the State had received patents to 5.4 million acres of its selections and another 8.5 million acres had been tentatively ap-

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[8] These figures are as of June 30, 1967. See *Public Land Statistics, 1967*, p. 88.

[9] See *Hearings before the Subcommittee on Territorial and Insular Affairs of the House Committee on Interior and Insular Affairs, on the Statehood bill* (*H.R. 50 and Related Bills*), 85th Cong., 1st Sess. (1957), pp. 218–225.

[10] *Alaska Natives and the Land* (October, 1968), p. 449.

[11] *Cf. Payne* v. *New Mexico*, 255 U.S. 367 (1921); *Wyoming* v. *United States*, 255 U.S. 489 (1921).

[12] It may be noted that the State of Alaska, in its suit challenging the legality of the land freeze, received a favorable ruling in the United States District Court for Alaska which ordered the Secretary to issue a patent for a tentatively approved State selection. The Secretary has taken an appeal to the Ninth Circuit which is yet to be argued. The issue in that case, as we understand it, is whether the Secretary can be compelled to issue final patent before the Native claims are settled, not whether approved State selections are valid existing rights. However, the pendency of the suit makes it even more important that the legislation, as an overall settlement of the Native claims, specifically recognize the status of tentatively approved State selections as valid exising rights which bar grants to the Natives—a status which those selections have by virtue of the provisions of the Statehood Act and the formal determinations made at the time of tentative approval "that there is no bar to passing legal title to the lands to the State other than the need for the survey of the lands or for the issuance of patent or both."

proved.[13] In ddition, it is understood that another 12 million acres have been selected but not yet tentatively approved.

With this general background discussion of the differences between Federal and State mineral leases and the need for treating them differently in the legislation, let us turn to the provisions of S. 1830.

As we read S. 1830, it generally recognizes these differences and deals appropriately with them in a manner consistent with the suggestions outlined above. However, there are a few matters which seem to need clarification as will be pointed out.

So far as Federal mineral leases are concerned, the scheme of S. 1830 is as follows:

1. Lands withdrawn under section 8 for the purpose of making Native grants remain subject to the mineral leasing laws and may continue to be leased under those laws as modified by section 12. Existing Federal mineral leases, and any new leases issued during the withdrawal period, would continue to be administered by the Secretary and the revenues derived by the United States, after deducting the costs of administration, would be paid into the Alaska Native Compensation Fund. Although this appears to be the intent of section 8(c), it would be desirable to spell it out somewhat more clearly.

2. When patents are issued under section 10 for lands covered by an existing contract, lease, or permit for the utilization of mineral or surface resources, subsection (k) requires the patent to contain provisions making it subject to the contract, lease, or permit and to the rights granted thereunder. The income derived by the United States, after allowance for administrative costs, is to be paid to the Alaska Native Development Corporation. This scheme is generally in accord with the recommendations we make for Federal mineral leases. However, the language, should be improved in a few respects for clarity. For instance. the word "lessor" is used where "lessee" is clearly intended, and the subsection does not consistently repeat the terminology of "contract, lease, or permit". Provisions should also be added which will: (1) specifically state that the Secretary will continue to administer the contract, lease, or permit; (2) provide for appropriate division of the revenues received by the United States, if only part of the land covered by a contract, lease, or permit is patented; and (3) provide for vesting in the grantee of the surface or the mineral estate, as appropriate, of the estate reserved by the contract, lease, or permit when it expires.

So far as State mineral leases are concerned, S. 1830 appears to proceed on the unexceptionable premise that the State will receive patents for its selections. Thus, section 11 provides for payment of $100 million as compensation for Native rights in lands withdrawn by the United States and "in lands selected by Alaska under the Statehood Act . . . prior to the effective date of this Act." Also, section 12(f) in effect grants to the Natives a 10 percent share of the revenues received by the State from lands patented to it after December 31, 1968. These provisions preclude any notion that the State's selections are available for grant to the Natives, but it would seem desirable to make the point explicit.

Although it thus seems to be clearly intended that the State's selections will be treated as the valid existing rights which they are (which has the result of appropriately protecting leases issued by the State on those selections), and that the Natives will be compensated for any "loss" caused by those selections, some confusion is created by the anomalous provision in section 10(j) that the Secretary shall take such measures as he deems appropriate to extinguish valid existing rights "where they conflict with the grants made" to the Natives. The Secretary has no power to extinguish valid existing rights by his own *fiat.* Perhaps the intent is that the Secretary may negotiate with the holder for relinquishment of his rights. If so, this provision should be revised accordingly. We suggest, however, that this provision be deleted and that a definition of valid existing rights be substituted which would make clear what rights preclude grants to the Natives (such as State patents, grants, and approved selections) and what rights do not preclude grants to the Natives (such as Federal mineral leases).

In addition, there are two other places in the bill where reference should be included to valid existing rights. The first is in section 8(d) which provides that withdrawn lands not patented within ten years are to be returned to the status they had on the date of wihdrawal. That return should be made subject

[13] *Alaska Natives and the Land* (October, 1968), p. 449.

to valid existing rights at the time of return, to take care of rights which may have been created in the interval.

The second place is in section 15 which provides for the revocation or grant of the Moquawkie Reservation as the Tyonek Indians decide by vote. The grant or the revocation, as the case may be, should be made subject to valid existing rights of any non-Natives, the same as is provided in section 16 for the revocation of other reservations, and appropriate provisions should be added to both of these sections for handling outstanding leases which are included among such valid existing rights.

Language carrying out our suggestions for clarification of S. 1830 in these respects is contained in Appendix B to this statement.

III. AUTHORITY FOR GRANTING EASEMENTS

The size of the land grants to the Natives, and the landlocking which may result, make it important for the legislation to contain appropriate authority for the Secretary to create easements necessary in the public interest.

The only mention of rights-of-way in S. 1830 is in subsections (f) and (j) of section 10. Subsection (f) provides that patents to individual Natives residing outside the areas withdrawn under section 8 shall be "subject to a reservation in the United States for access or rights-of-way for public roads or utilities." Subsection (j), which, as previously mentioned, contains the anomalous direction to the Secretary to extinguish valid existing rights which conflict with the Native grants, excepts from that direction "easements or rights-of-way for public purposes."

As a minimum, we suggest that the legislation should clearly authorize easements for public purposes by including the provision which was section 7(g) of the bill proposed last year by the Department of the Interior (S. 3586) and the revision of that bill endorsed by the Alaska Federation of Natives (S. 3859). That provision reads:

"(g) The Secretary is authorized to make any grant of land under this Act subject to easements for any public use, benefit, or purpose, including easements for the administration and utilization of any Federal lands."

We also recommend that the words "or lands owned by the State of Alaska" be added at the end of this provision in order to make it explicit that the authority granted to create easements for public purposes includes the creation of easements which are needed for the administration of State, as well as Federal, lands.

The provision recommended above should be sufficient for needs which can be foreseen at the time the grants are made. However, the relatively undeveloped character of much of Alaska, the size of the land grant which may be made to the Natives, and the possibility that landlocked areas of Federal and State lands may result, all indicate that there may be needs which cannot be foreseen at the time of the grants but which will be necessary in the future for the proper utilization and administration of public lands owned by the United States and the State of Alaska. It therefore seems appropriate to consider whether a further provision should be included making the grants subject to the right of the United States to create the same kinds of easements for public purposes in the future. It is realized that such a provision could have adverse effects on the value of the grants unless appropriate safeguards are included, such as provisions for release and for judicial review, or for a time limit on the authority to create easements. The need for authority to create future easements for public purposes seems sufficiently likely, however, as to warrant exploring how the balance can be struck between creating it without unduly impairing the grants. Our suggested language for accomplishing this appears in Appendix C. The first paragraph of the proposed subsection is the authority for creating present easements, taken from last year's Departmental bill, but with State lands added. The second paragraph deals with future easements and contains safeguards designed to prevent abuse of the authority and adverse effects on the use of the grants.

IV. MISCELLANEOUS

This completes our suggestions on the three matters of direct interest to us. The time available for study of S. 1830 has been short. It may be that we will have additional suggestions or refinements to submit after further study and with the benefit of the views expressed by others at these hearings. We respectfully request that the record be kept open for a time for this purpose.

Meanwhile, we would like to call the Committee's attention to two matters we have noticed in the bill which appear to need clarification, even though they are of no direct interest to us.

The first is the relationship between section 12(a)(2) and sections 8(c) and 10(k) which appears to need resolution. Section 12(a)(2) gives the Natives 10 percent of all mineral leasing law revenues, while sections 8(c) and 10(k) would give the Natives all of such revenues (after administrative costs) from lands withdrawn under section 8 and granted under section 10. There is no such inconsistent overlap in the disposition of surface resource revenues because section 12(e), in granting a 10 percent share of those revenues, makes a specific exception for "lands withdrawn by section 8". We suggest that the disposition of mineral revenues be cleared up in the same way by inserting the phrase ", except from lands withdrawn by section 8 of this Act," after the word minerals" in line 13 on page 34.

The second matter is section 14, dealing with the Tlingit-Haida settlement. The provisions of this section appear somewhat unclear, particularly as to what happens if those Natives vote against being included under the Act. We have no suggestions to make other than that the section may need further study to spell out whatever is intended.

This concludes our statement. We thank you very much for the opportunity to express these views on this important legislation which we hope will move forward as promptly as possible.

Appendix A—Comprehensive Description of Native Claims

The following is a suggested revision of section 3(a) of S. 1830 to provide a more comprehensive description of the Native claims which are being settled and extinguished. Changes are shown by deleting language in brackets and by language which would be added printed in italics.

"Sec. 3. (a) The provisions of this Act shall [be regarded as] *constitute* full and final settlement and extinguishment of any and all claims against the United States, *the State of Alaska, and all other persons which are* based upon [aboriginal right, title,] use or occupancy of lands, *waters, and submerged areas* in Alaska by any native or native group, *including claims based upon aboriginal right, title, use, or occupancy* [or,] claims arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), *or any other statute or treaty of the United States,* [including] *and* claims pending before the Indian Claims Commission on the effective date of this Act."

Appendix B—Appropriate Provisions for Existing Federal and State Mineral Leases

The following changes are suggested in S. 1830 to deal appropriately with existing Federal and State mineral leases as valid existing rights:

1. On page 2 in line 13, following the word "parties", insert the phrase "or by selection by the State".
2. On page 26, in line 25, change the period to a comma and insert the following phrase "including the continuation of existing and the issuance of new leases, permits, and contracts under the mineral leasing laws."
3. On page 27, in line 5, strike the period and insert the following phrase "subject to any valid existing rights at the time of return."
4. On page 32 in line 23, after the word "withdrawals", insert the words "under section 8 of this Act".
5. On page 32, in line 25, substitute a period for the comma after "persons", strike the balance of that line and all of lines 1 through 4 on page 33, and insert in place thereof the following: "The term 'valid existing rights' as used in this Act shall include, but not be limited to, (1) grants made and patents issued to the State of Alaska or to other third parties, (2) land selections made by the State of Alaska under the Statehood Act of July 7, 1958 (72 Stat. 339) which have been tentatively approved thereunder, and (3) contracts, leases, or permits issued by the United States or the State of Alaska for the utilization of mineral or surface resources. Lands which have been granted or patented to the State of Alaska or to other third parties and lands which have been selected by the State and tentatively approved, may not be withdrawn or patented or granted under this Act. Lands covered by a contract, lease, or permit issued by the United States for the utilization of mineral or surface resources may be withdrawn and patented or granted under this Act subject to such contract, lease, or permit and

the continued administration thereof by the Secretary as provided in sections 8(c) and 10(k) of this Act."

6. On page 33, at the end of line 6, insert the words "by the United States".

7. On page 33, change line 9 to read as follows: "contract, lease, or permit and the right of the contractor, lessee, or permittee to".

8. On page 33, in line 11, change "lease or contract" to "contract, lease, or permit".

9. On page 33, delete the sentence which begins in line 11 and continues through line 14, and insert in its place the following: "The Secretary shall continue to administer such contract, lease, or permit, and the revenues reserved to the United States thereunder accruing subsequent to the patent, after allowance for administraive costs as determined by the Secretary, shall be paid to the corporation, provided, however, that if only part of the land covered by such contract, lease, or permit is patented, then the amount to be paid to the corporation shall be such proportion of said revenues, after allowance for administrative costs as determined by the Secretary, as the acreage of the land covered by such contract, lease, or permit which is included in the patent bears to the total acreage of such conract, lease, or permit. Upon the expiration of any such contract, lease, or permit the estate reserved thereby, if surface, shall vest in the patentee of the surface and, if mineral, shall vest in the corporation in accordance with subsection (g) of this section."

10. On page 33, insert the following sentence after the period in line 21: "Such selections by the State of Alaska are hereby confirmed and, without regard to the Native claims settled and extinguished by this Act, shall proceed to patent where patent has not already issued, all else being regular."

11. On page 41, insert the following after the period in line 10: "Any grant under clause (a) or (b) or revocation under clause (c) of this section shall be subject to valid existing rights of any nonnatives, including the complete enjoyment by lessees of all rights, privileges, and benefits granted to them under any outstanding leases. Such leases shall continue to be administered by the Secretary." [Provisions may also be added for disposing of the revenues reserved to the lessor under those leases depending upon whether any change is desired or appropriate in that regard as part of the settlement.]

12. On page 41, in line 18, strike the period and insert the following: ", including the complete enjoyment by lessees of all rights, privileges, and benefits granted to them under any outstanding leases. Such leases shall continue to be administered by the Secretary." [Provisions may also be added for disposing of the revenues reserved to the lessor under those leases depending upon whether any change is desired or appropriate in that regard as part of the settlement.]

Appendix C—Authority for Granting Easements

The following changes are suggested in S. 1830 to provide appropriate authority for granting easements for public purposes:

1. On page 31, insert a period in place of the comma after "Act" in line 12, and strike the balance of that line and all of lines 13 and 14.

2. On page 33, between lines 14 and 15, insert the following new subsection (*l*):

"(l)(1) The Secretary is authorized to make any grant of land under this Act subject to easements for any public use, benefit, or purpose, including easements for the administration and utilization of any Federal lands or lands owned by the State of Alaska.

"(2) In addition, grants of land under this Act shall be subject to a reservation to the United States of the right to create easements in the future for any public use, benefit, or purpose, including easements for the administration and utiliaztion of any Federal lands or lands owned by the State of Alaska, on such terms and conditions, which may include payment of compensation, as the Secretary shall determine to be reasonable, appropriate, and just. If such reservation should materially interfere with the sale or use of any land granted under this Act, the owner thereof may apply to the Secretary for a release of such reservation in whole or in part and shall furnish to the Secretary such information as the Secretary may require in order to determine whether a release is warranted. Any determination made by the Secretary under this subparagraph (2) shall be subject to judicial review by the United States district court in Alaska for the division in which the petitioner resides or the land in question is located upon the filing in such court within 30 days from the date of such determination of a petition by the person aggrieved by the determination

praying that the action of the Secretary be modified or set aside in whole or in part. A copy of the petition shall forthwith be sent by registered or certified mail to any other party to the proceeding and to the Secretary, and thereupon the Secretary shall certify and file in such court the record upon which the determination complained of was issued. The court shall hear the matter on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify the determination or may remand the proceeding to the Secretary for such further action as it directs. The judgment of the court shall be subject to review by the United States court of appeals for the circuit in which the petitioner resides and by the Supreme Court of the United States upon certiorari or certification as provided in section 1254, title 28, United States Code."

Senator GRAVEL. I would like to call on Mr. James Peacock, attorney for the five chiefs of the Yakutat.

STATEMENT OF JAMES PEACOCK, ATTORNEY FOR THE FIVE CHIEFS OF YAKUTAT

Mr. PEACOCK. Mr. Chairman, I have a prepared statement here, just one page.

Senator GRAVEL. Very good, sir. Would you care to read it or insert it in the record?

Mr. PEACOCK. I would be glad to have it inserted in the record, and I will make just one comment.

In one place I say I hold in my hand letters from the Assistant Director of the Bureau of Land Management giving figures about oil and gas leases to third parties. I have those letters right here, copies of them. And I will be glad to submit the statement and these letters.

Senator GRAVEL. Sir, I appreciate your courtesy.

(The prepared statement referred to follows:)

STATEMENT OF JAMES CRAIG PEACOCK, ATTORNEY FOR FIVE INDIAN TRIBES

As attorney for five Tlingit Tribes holding original Indian title to portions of the strip along the Gulf of Alaska from the Coffee River to Cape Fairweather, let me express our support and approval of the Declaration of Policy in Section 1. But at the same time we are concerned that the bill is too indefinite about giving effect to some of those policies. I refer especially to Section 1(a)(4).

For example, I hold in my hand letters from the Assistant Director of the Bureau of Land Management giving definite figures about oil and gas leases to third parties.

Let me suggest that Section 11, on page 33, entitled "Compensation for Lands Previously Taken" be supplemented by adding a sentence substantially as follows: "If the Bureau of Land Management or any other agency of the United States has definite records of the amounts already received by the United States from leases on land held under native title by any tribe or community of tribes, it shall on request certify such amounts to the Secretary of the Treasury and the latter shall pay over the full such amounts to such tribe or community free of any liability under Federal or State tax laws."

Let me also refer you to a most appropos statement on this whole matter on April 16, 1960, by the late Senator Bartlett at Vol. 186, Part 6, of the Congressional Record, pages 1446–1447, and to the statement of February 1, 1968, by Senator Gruening at 114 Cong. Record No. 14, page 1.

Let me also add one further comment. In a letter with respect to a proposal of similar import in an earlier Congress, the Assistant Secretary of the Interior stated to the Chairman of the House Committee on Interior Affairs as an apparently major objection that "The claim of original Indian title to [this very large area of land] has not been proved." On the contrary, that allegation is not accurate. In its 1959 decision in the *Tlingit and Haida* case, 147 C.Cls. 342, 177

F. Supp. 452, 468, the Court of Claims said: "We hold that the Tlingit Indians owned by Indian title the area shown on plaintiff's exhibit 168 reproduced herein, * * *" The Exhibit includes almost the entire Yakutat Development Company area and almost necessarily implies its application to the balance of both that area and the Northern Development Company area.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., July 30, 1968.

Mr. J. C. PEACOCK,
Williams, Myers & Quiggle,
Washington, D.C.

DEAR MR. PEACOCK: Your request of July 11, 1968, addressed to the Secretary of the Interior concerning the title to the area along the Gulf of Alaska has been referred to me.

About 1,334 oil and gas leases were issued in the area. While most of them had lapsed by 1963, we believe some were active subsequent to that date.

There has probably been a slight increase in the $617,305 which you mentioned in your letter. We are requesting our Alaska office to review the transactions involving the active leases since 1963 and develop current figures corresponding to the 1963 figures to which you make reference.

We will transmit the information to you promptly upon receipt.

Sincerely yours,

J. P. BEIRNE,
Assistant Director, Administraion.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., August 20, 1968.

Mr. J. C. PEACOCK,
Williams, Myers & Quiggle,
Washington, D.C.

DEAR MR. PEACOCK: This in further reply to your request of July 11, 1968, addressed to the Secretary of the Interior concerning retention by the Federal Government of a share of oil and gas revenues collected along the Gulf of Alaska.

During the period March 31, 1963, through July 31, 1968, the Bureau of Land Management collected $175,073 from leases along the Gulf of Alaska from Cape Fairweather to the Copper River. Ninety percent of this amount was paid to the State of Alaska while the Federal Government retained 10 percent of $17,507. This brings the total retention by the Federal Government to $688,812 for the period February 6, 1953, through July 31, 1968.

Sincerely yours,

J. P. BEIRNE,
Assistant Director, Administration.

Mr. PEACOCK. I will be glad to confer with the committee at any time if I can help in any way.

Senator GRAVEL. Sir, I appreciate your graciousness in the interest of time. I am sure your statement will be of great relevance in solving the problem and I am sure the staff will avail itself of your services should we need them in the future.

Mr. PEACOCK. I thank you, sir.

Senator GRAVEL. I thank you for your interest, sir. I would like to call upon Mr. Louis Clapper of the National Wildlife Federation. Mr. Clapper.

STATEMENT OF LOUIS CLAPPER, REPRESENTING THE NATIONAL WILDLIFE FEDERATION

Mr. CLAPPER. Good afternoon, sir.

I have a letter here from Mr. A. W. Boddy of Alaska Sportsmen's Council, and I would like to leave it with the committee.

Senator GRAVEL. Please do.

(The letter referred to follows:)

ALASKA SPORTSMEN'S COUNCIL,
Juneau, Alaska, April 24, 1969.

Hon. HENRY M. JACKSON,
Chairman of Senate Interior and Insular Affairs Committee,
Washington, D.C.

DEAR SENATOR JACKSON: The Alaska Sportsmen's Council appreciates the opportunity to make its presentation regarding Senate Bill 1830 providing for settlement of certain Indian land claims in Alaska. The Alaska Sportsmen's Council is a statewide sportsmen's conservation group which is affiliated with the National Wildlife Federation. We previously submitted reports to your committee on Senate Bill 2906.

We have consistently supported the philosophy of a full, just and equitable settlement at the earliest possible date. There is a distinct need for an end to the long pending claims of Alaska's citizens of Indian, Eskimo and Aleut blood. This is not only desirable from the standpoint of native citizens but also from the point of view of the United States and of the State of Alaska. The pressure is terrific here and failure to reach a settlement may have undesirable social results.

Much has been said recently in newspaper articles, radio reports and other news media regarding the poverty of many of our Alaska native citizens. Unfortunately, these reports are all true. It is inevitable that some people will reach the conclusion that it is a case of discrimination against native citizens. A few comments along that line might be worthy of your consideration at this point. In Alaska there has been full scale integration, frequently intermarriage between natives and whites and full political equality for many years. A large percentage of Alaska's natives live in native communities but this is not because they have been ostracized from white society. Rather, it is because their homes, which they love, happen to be in remote areas of the State. Even in those areas you will find white citizens residing in most instances. The strong national trend towards urbanization has not bypassed Alaska, however, and ther has been a strong trend throughout Alaska involving our native citizens that has brought them into urban areas. Many of these villages are listed in Sec. 8 of SB 1830. Many of those same villages have been virtually abandoned in the wake of every increasing urbanization. For example, Nome and Kotzebue have become the permanent residences of many native people who, not so many years ago, were residing in the surrounding small villages.

Every State legislature has had substantial representation from our native citizens. The first president of the first State Senate after statehood was William Beltz, an Eskimo from Unalakleet. A few years later that post was held by a veteran Indian legislator from Klawock, Senator Frank Peratrovich. As of the time of this writing, there are at least five native members on the State legislature. Some of the Caucasian members are married to natives. It is good that it is so. Native and white have worked side by side in Alaska's growing economy for many years and have hunted and fished on an equal basis. The Alaska Sportsmen's Council desires to see that equality preserved and the good relations between all of our people strengthened and cemented that we may never have a race problem such as that which exists in other parts of our country.

It is for reasons such as these that we have consistently emphasized that any settlement ought to be a monetary settlement rather than one which creates a checker board across the State of large grants with special privileges of fishery and other public resources that apply only to native citizens. Such a plan

is not fair to the rest of the people of Alaska or to the State as a whole. The first time that a white citizen goes out for his annual hunt or fishing trip in his traditional hunting and fishing areas and is told that he is trespassing on Indian land will signal the dawn of a new era in Alaska. We have never had this. Remember that there are many third and fourth generation Alaskans who, by the accident of birth, are white. Yet, we have all shared equally in the resources of this State until now.

As a result of the tremendous effort and organization, assisted in large part by both State and Federal funds, there have been certain statements made to the effect that discrimination against natives in the past now justifies a degree of militance on their part to insure an early and equitable settlement. Not all people feel this way yet unfortunate claims of discrimination have been made and they are one phase of the overall effort. In our opinion, such statements are a borrowed tactic. Many members of the Congress may not be familiar with Alaska so perhaps it is worth another sentence or two in pointing out that there is no such thing as closed housing in Alaska, no "white only" signs, no separate facilities or anything of that nature. There has never been a race riot. (Some Negros and whites demonstrated at the Air Force base in Anchorage about five years ago over employment discrimination.) All hotels, inns, restaurants, parks and the like are wide open to all people.

There is some government imposed discrimination in Alaska. For example, a poor white person is without recourse for medical attention. He has to depend on the good graces of a doctor to take care of him. Natives receive their medical attention free through the Public Health Service. A white mother with one child who is on State welfare can collect a maximum of $140.00 in welfare benefits (hardly enough to pay rent in Alaska) whereas a native mother in the same circumstances receives much more. The Bureau of Indian Affairs sees to it that she receives enough money for rent, clothing, utilities and food. This can well exceed $200.00 per month and often does. A white youngster who cannot afford a higher education after graduation from high school is out of luck unless he can get a scholarship. Natives receive theirs through the government. We do not seek the reduction of those benefits which are exclusively for our native citizens, Senator Jackson. By and large (but with significant exceptions) natives, as a class, are in a lower economic status than their white neighbors and these Federal programs are indeed necessary. But they do show that the discrimination, if it exists, is not all one way.

The bill, if it concentrated on a money settlement with land grants only to *bona fide* native villages actually occupied would meet with our wholehearted support. It does much more. The following are some suggestions for amendments that we are submitting based on a rather hurried review. We only received the bill yesterday—a xerox copy from the Congressional Record.

1. First, the bill should have a specific land grant limit. It does not. It appears to be open-ended.

2. Every village will receive "at least 23,040 acres." [Sec. 8(a) (2)]. This might be within reason for a city such as Barrow or Kotzebue. It is not reasonable for 90 percent of the villages shown in Sec. 8 of the bill. Not only is it a gigantic land grant, placing much of the best land into private ownership based solely on race, but it can be grossly unfair as between native groups. For example, a village with 20 residents will receive the same amount of land as a village with over 1,000 residents.

3. Sec. 10(d) is another wide open opportunity to acquire choice sites. Proving or disproving whether an individual native or group picks berries, fished or utilized "other products of the land" would appear to be an impossible administrative thicket. Bear in mind that one out of every five people in Alaska is a native. Thousands of Alaskans pick berries or otherwise utilize "products of the land."

4. Sec. 12(a) (2) provides for funding with 10 percent of the revenues which would otherwise go to the State of Alaska under the Statehood Act. We do not think that the United States Congress has the right to unilaterally diminish funds under the Statehood compact between the State of Alaska and the United States. Even if the State legislature consented, it would be an illegal act as far as the State is concerned. Our constitution absolutely forbids legislation favoring one group over another based upon race, color or creed. Article I, Sec. 1 and Article I Sec. 2, Constitution of the State of Alaska. The United States can, of course, appropriate funds for Indians under its power to regulate commerce among the Indian tribes. Alaska has no such authority.

5. Sec. 12(f) is subject to the preceding objection.

6. Sec. 13 confers power upon the Secretary of Interior to regulate "subsistance biotic resources" if he is petitioned by any individual to do so. The authority apparently would exist for ten years, only. The Secretary's authority would apply to "any given area of the State" but we presume this means only public land in Alaska. He can then close any such areas to hunting, fishing or trapping. By what constitutional authority are fish and game resources of Alaska subject to Interior Department control? It is not so in any other state in the Union. Although the very idea of a subsistance economy poses a threat to sound conservation practices, the State of Alaska has, itself recognized that it has not yet reached the stage where it can completely terminate subsistence hunting and fishing. Yet, the State has always insisted that if we are going to use our natural resources to supplement our welfare needs, the right to take fish and game for subsistance ought not to be based upon race. It is to be based on economic need and nothing more. The State legislature has, in fact, provided for special twenty-five cent subsistance hunting and fishing licenses in the Fish and Game Code open to all residents who qualify. As originally proposed, it would have applied to natives only but the State wisely refused to make such a distinction in the light of our constitutional prohibition against discrimination based on race. The provision in Sec. 13 which would allow the Secretary to close areas "except to residents of such area" would effectively emasculate our conservation programs in some instances by creating a special privilege of hunting and fishing.

7. Sec. 10(f) provides that the Secretary *shall* grant patents to individual natives who are not residing in any of the 218 communities listed in Sec. 8. A little calculation will show that upwards of a million acres in tracts of 160 acres each will likely checkerboard the State of Alaska under this provision. A similar proposal on a larger scale was objected to when SB 2906 was before your committee (in lieu selections). Under Sec. 10(f) public land located exclusively in Alaska is to be used in lieu of money to extinguish an obligation which is the obligation of the nation—not just that of a single state. While there is no question as to the authority of the Congress to grant title to the land actually in use and occupancy by natives, there is a question whether payment can be made by way of land grants to natives who do not use or occupy the land and in any event we object to the very concept that such public land be taken only from the State of Alaska when the obligation is a national obligation.

CONCLUSION

We feel that a settlement should be just that. If native claims are to be settled through the present bill, and we hope that they can be with the amendments suggested, then let's have the foresight to insert a strongly worded section in the bill to the effect that it forever extinguishes any and all aboriginal rights in or to the land, fisheries, game, or other resources of Alaska. Only in this manner can we hope for a future uncomplicated by perennial suits, claims, clouds on title, administrative hearings and the inevitable conflicts between people which result. Only if we in fact *extinguish* once and for all the aboriginal rights in question can Alaska's Indian and non-Indian citizens go forward together and develop the kind of beautiful society that is the essence of the American dream.

The foregoing report is a request for amendments only. We do not oppose the principal of the settlement but we ask that care be given and further attention to the land grant provisions with the hope that they may be restricted to actual areas of occupancy and that monetary benefits be increased if necessary to effect a settlement. This approach is consistent with the position of the National Wildlife Federation as presented to you some months ago. For your information, a copy of that resolution is annexed hereto.

Thank you very much.

Very truly yours.,

A. W. Boddy, *Executive Director.*

Mr. Clapper. I also have copies of my statement that I would like to leave with the committee. And I will summarize in an effort to cut down on the time.

The identification of my organization is there in the opening paragraphs, and I will go on down to some of the more detailed portions.

Our organization long has been interested and concerned about the

vast resources of Alaska and we are confident that this proposal, if enacted, can have a profound and significant effect upon that State and the people residing there. And as some evidence of our interest in Alaska I would like to leave with the committee a copy of our National Wildlife magazine which carries a feature on Alaska in the same issue.

Senator GRAVEL. The magazine referred to will be found in the files of the committee.

Mr. CLAPPER. Earlier this year our organization adopted a resolution that emphasizes these basic principles.

1. The Congress must act speedily to resolve the Native claims, once and for all, in order that development of Alaska shall procede in a proper and orderly manner;
2. Cash settlements should be sought wherein possible as the most expeditious means of extinguishing claims by Natives;
3. Alaska Natives should be granted title to their village sites and limited amounts of adjacent lands essential to their livelihoods; and,
4. Natives should have only subsistence hunting, fishing and trapping rights.

Mr. Chairman, we think S. 1830 can be a proper vehicle for the settlement of Native claims. However, we join Mr. Boddy in expressing the firm belief that the bill goes much too far. We agree that the claims should be extinguished by money grants and allocations of land for bona fide Native villages. However, the bill goes far beyond this. Specifically, we have questions and comments about several portions of the proposal and these follow.

Section 8(2) apparently gives 23,040 acres of land to each of the villages listed, or a total of nearly 5 million acres—about double what we think is a reasonable amount. The amount of 23,040 acres is reasonable for some villages or cities but is an exceptionally high amount for others. Apparently, there is to be no differentation between sizes of communities or numbers of people.

Moreover, this amount is spoken of arbitrarily as "at least 23,040 acres." Thus, this appears to be a minimum. What then is the maximum? Or is it open ended? We recommend that a ceiling be placed upon these grants. Further, this procedure appears unfair in that the best land would be parceled out on the basis of race.

One important reason that we favor cash settlements over all other forms of compensation is the difficulties that can be encountered by section 10 of the proposed bill.

Subsection 10(a) grants a patent to "the individual or organization occupying such land." How much land? By whom? How long will the Alaska Native Claims Commission require to resolve claims and counterclaims? It must be made crystal clear that the references in this section and elsewhere to "public lands" do not include properties within national parks, national wildlife refuges, and national forests.

Subsection 10(d) opens a real Pandora's box. Thousands of natives have roamed far and wide to harvest fish, wildlife, berries, fuel, or other products of the land. And, there is no limitation on the amounts of land that conceivably might be granted under such a loose arrangement. Certainly, attempts would be made to get all of the choice sites. And, how many reindeer managers will be involved in the grants outlined in subsection 10(e)? We also fear that all sorts of land problems

can be raised by grants provided individuals in subsection 10(f).

Our previous experience in handling public lands surely should have warned us against perpetuating the difficulties raised by intermingled or checkerboarded land ownership.

The sum of $100 million allowed by section 11 appears quite generous and should be ample to extinguish all native claims without extensive land and mineral grants.

Section 12 also promises to open the way to additional controversy and confusion. It appears to open the whole of Alaska to the disposition of minerals, with the Alaska Native Compensation Fund to get 10 percent of the receipts. This would include revenues from the Outer Continental Shelf. An allocation of this sort conflicts with the Alaska Statehood Act and we doubt that the United States should take unilateral action of this sort. Subsection 12(f) conflicts over the sales of lands in a similar manner.

Still another weakness is in section 13 of the proposed bill. This apparently relates to section 1(3) which reads that the act is intended to provide:

where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources and, where necessary, a priority for local subsistence in the utilization of these resources.

That provision, in itself, is not clear. Then section 13 provides for petitions to the Secretary of the Interior, who would determine whether or not an emergency exists with respect to "subsistence biotic resources" and could take action on it. Presumably, this authority extends only 10 years.

In our opinion, Mr. Chairman, this whole section should be junked as unacceptable and, if necessary, rewritten to provide that natives shall have only subsistence hunting, fishing, and trapping rights—for their own personal use and that of their immediate families and not for commercial purposes, with the State of Alaska deciding and promulgating regulations relating to open seasons and bag limits and methods of harvest on resident wildlife. These practices should not be a function of the Federal Government. And, I should like to emphasize that we are unalterably opposed to any general granting of exclusive hunting, fishing, and trapping rights for anyone, native or nonnative.

In conclusion, Mr. Chairman, we hope and trust these recommendations will be given the utmost consideration before S. 1830 or any other bill on the subject is cleared by the committee.

Thank you for the opportunity of making these comments.

Senator GRAVEL. Did you ask that the resolution be included in the record?

Mr. CLAPPER. I would like for it to be included, sir. Mr. Boddy referred to it also in his statement. It is the same resolution.

Senator GRAVEL. I think if there is no objection—as I understand it, he sent his letter of testimony to the chairman—and if the chairman has no objection I would ask that it be placed in the record following your testimony.

Mr. CLAPPER. Thank you, sir. Just so it gets in the record in some manner.

Senator GRAVEL. Do you have any comments? We are sorry about this. There is a series of rollcalls going on over there right now.

29-111—69——11

Mr. CLAPPER. We are very pleased to be able to accommodate the committee in any way.

Senator GRAVEL. Thank you very much for your comments. I am sorry that I have not had the opportunity to direct any questions to you of any substance. If we have any later we will be in touch with you.

Mr. CLAPPER. I finished writing it at 1 o'clock this afternoon, so it is rather hurried.

Senator GRAVEL. Thank you very much, Mr. Clapper.

(The statement and resolution referred to follow:)

STATEMENT OF LOUIS S. CLAPPER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Louis S. Clapper, Director of Conservation for the National Wildlife Federation, which has national headquarters at 1412 Sixteenth Street, N.W., here in Washington, D.C.

The National Wildlife Federation is a private organization which seeks to obtain conservation goals through educational means. It is composed of affiliated organizations in 49 States, including Alaska. These Affiliates, in turn, are made up of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated 2½ million persons.

We appreciate the invitation to appear here today.

Mr. Chairman, A. W. (Bud) Boddy, Executive Director of the Alaska Sportsmen's Council and a member of the Board of Directors of the National Wildlife Federation, asked that we deliver a presentation to the Committee for him and I have ten copies of that statement here. I ask that this statement be made a part of the record of this hearing. I might say that, in the last sentence of his statement, Mr. Boddy alludes to a resolution adopted earlier this year by the National Wildlife Federation and this is the same as the resolution that is appended to my statement.

Our organization long has been interested and concerned about the vast resources of Alaska and we are confident that this proposal, if enacted, can have a profound and significant effect upon that State and the people residing there. In fact, the centerspread feature of our magazine, NATIONAL WILDLIFE, April–May, 1969, issue, is on Alaska and a copy is attached for the use of the Committee.

The resolution adopted by the National Wildlife Federation earlier this year emphasizes these basic principles:

1. The Congress must act speedily to resolve the native claims, once and for all, in order that development of Alaska shall proceed in a proper and orderly manner;
2. Cash settlements should be sought wherein possible as the most expeditious means of extinguishing claims by Natives;
3. Alaska natives should be granted title to their village sites and limited amounts of adjacent lands essential to their livelihoods; and,
4. Natives should have only subsistence hunting, fish, and trapping rights.

In addition to the above, we would call particular attention to Mr. Boddy's statement, wherein he cautions against raising the specter of racial discrimination in consideration of this bill. He points out that, if anything, discrimination in Alaska is against the non-Native.

Mr. Chairman, we think S. 1830 can be a proper vehicle for the settlement of Native claims. However, we join Mr. Boddy in expressing the firm belief that the bill goes much too far. We agree that the claims should be extinguished by money grants and allocations of land for bona fide native villages. However, the bill goes far beyond this. Specifically, we have questions and comments about several portions of the proposal and these follow.

Section 8(2) apparently gives 23,040 acres of land to each of the villages listed, or a total of nearly 5,000,000 acres—about double what we think is a reasonable amount. The amount of 23,040 acres is reasonable for some villages or cities but is an exceptionally high amount for others. Apparently, there is to be no differentiation between sizes of communities or numbers of people. Moreover, this amount is spoken of arbitrarily as "at least 23,040 acres." Thus, this appears to be a minimum. What then is the maximum? Or is it open-ended? We

recommend that a ceiling be placed upon these grants. Further, this procedure appears unfair in that the best land would be parcelled out on the basis of race.

One important reason that we favor cash settlements over all other forms of compensation is the difficulties that can be encountered by section 10 of the proposed bill.

Subsection 10(a) grants a patent to "the individual or organization occupying such land." How much land? By whom? How long will the Alaska Native Claims Commission require to resolve claims and counterclaims?

It must be made crystal clear that the references in this section and elsewhere to "public lands" do not include properties within National Parks, National Wildlife Refuges and National Forests.

Subsection 10(d) opens a real Pandora's box. Thousands of natives have roamed far and wide to harvest fish, wildlife, berries, fuel, or other products of the land. And, there is no limitation on the amounts of land that conceivably might be granted under such a loose arrangement. Certainly, attempts would be made to get all of the choice sites. And, how many reindeer managers will be involved in the grants outlined in subsection 10(e)? We also fear that all sorts of land problems can be raised by grants provided individuals in subsection 10(f). Our previous experience in handling public lands surely should have warned us against perpetuating the difficulties raised by intermingled or checkerboarded land ownerships.

The sum of $100 million allowed by Section 11 appears quite generous and should be ample to extinguish all native claims without extensive land and mineral grants.

Section 12 also promises to open the way to additional controversy and confusion. It appears to open the whole of Alaska to the disposition of minerals, with the Alaska Native Compensation Fund to get 10 percent of the receipts. This would include revenues from the Outer Continental Shelf. An allocation of this sort conflicts with the Alaska Statehood Act and we doubt that the U.S. should take unilateral action of this sort. Subsection 12(f) conflicts over the sales of lands in a similar manner.

Still another weakness is in Section 13 of the proposed bill. This apparently relates to Section 1(3) which reads that the Act is intended to provide: "where it is within the power of the Federal Government, measures for the conservation of subsistence biotic resources and, where necessary, a priority for local subsistence in the utilization of these resources." That provision, in itself, is not clear. Then Section 13 provides for petitions to the Secretary of the Interior, who would determine whether or not an emergency exists with respect to "subsistence biotic resources" and could take action on it. Presumably, this authority extends only ten years.

In our opinion, Mr. Chairman, this whole section should be junked as unacceptable and, if necessary, rewritten to provide that Natives shall have only subsistence hunting, fishing, and trapping rights—for their own personal use and that of their immediate families and not for commercial purposes, with the State of Alaska deciding and promulgating regulations relating to open seasons and bag limits and methods of harvest on resident wildlife. These practices should not be a function of the Federal Government. And, I should like to emphasize that we are unalterably opposed to any general granting of exclusive hunting, fishing, and trapping rights for anyone, Native or non-Native.

In the broad context of considering Native Claims it would be folly to design a bill based upon old fashioned traditional viewpoints of native existence. With very few exceptions individual natives and villages now live under the influence of modern man along with many of the questionable advantages of our advanced civilization. As in the lower 48, there is a trend of moving from rural to urban areas, to seek relief checks, to embrace man's modern machines and distinctly away from living off the land. These changes will become more profound as time passes. Any native claims proposal must be geared to these changes.

In conclusion, Mr. Chairman, we hope and trust these recommendations will be given the utmost consideration before S.1830 or any other bill on the subject is cleared by the Committee.

Thank you for the opportunity of making these comments.

Resolution of the National Wildlife Federation

NATIVE CLAIMS IN ALASKA

Whereas, native land claims in Alaska have been problems since 1884, when an Act establishing a civil government provided that "Natives shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them," but with the Congress to decide upon terms and conditions under which they might get title; and

Whereas, subsequent Congresses have refrained from solving or identifying the question of land ownership amid conflicting claims and/or compensation in lieu of the granting of titles; and

Whereas, the development of Alaska cannot proceed properly until these claims are settled; and

Whereas, early determination should be made of these claims and, if found valid, adequate cash and a limited amount of land should be granted in compensation;

Now, therefore, be it resolved that the National Wildlife Federation, in annual convention assembled Feb. 28–March 2, 1969, in Washington, D.C., hereby expresses its conviction that these principles should govern any settlement:

1. Various groups of Alaska natives should be granted title to the village sites they occupy and a limited acreage of adjacent lands considered essential to their livelihoods; with "natives" to be defined as Indians, Aleuts, and Eskimos of Alaska with claims centered upon aboriginal use and occupancy of lands;

2. No individual village or group grant should exceed 50,000 acres, with a total for all not to exceed 2,500,000 acres and a decision by hearings before the Congress or the Indian Claims Commission a prerequisite for a grant;

3. Natives should have only subsistence hunting, fishing, and trapping rights.

4. The U.S. should consider these grants as extinguishing any and all claims to use and occupancy of much larger areas, for additional cash settlements, for legal fees, and for exclusive hunting, fishing, and trapping rights.

Senator Gravel. Mr. Herbert, will you come forward please?

STATEMENT OF CHARLES F. HERBERT, REPRESENTING THE ALASKA MINERS' ASSOCIATION

Mr. Herbert. My name is Charles Herbert, and I am representing the Alaska Miners' Association.

I am a mining engineer specializing in mineral exploration.

Because of the lateness of the hour I request the chairman, if I may, to have an opportunity to submit a statement later. I have only one point to make at this time. And that is that section 12(d) (2) which provides for a royalty on unlocatable minerals of 5 percent would put the exploration business in Alaska in a noncompetitive position with northern Canada, our greatest competitor, and it would yield practically no revenue to the natives at all during the next 10-year period, because it takes a long time to develop a mine on which royalties can be paid. And of course the mining industry is traditionally a large employer of the native people.

Other than that I would not take up any more of your time. And I do appreciate coming down here. And I came rather reluctantly and hurriedly, but I am very happy that I did, because it does appear from the testimony today that this huge problem is well on its way to solution because of your great efforts.

Thank you very much.

Senator Stevens. Mr. Herbert, if there is no objection from the

chairman, we will put your statement—I understand you are going to send one to us?

Mr. HERBERT. Yes, sir.

Senator STEVENS. I wonder if you would do us a favor and put in some of the Canadian provisions so that the committee will have the comparative material right here with the committee, the provisions that you speak of that would make your industry not competitive as far as the competitive factor is concerned? Could you do that?

Mr. HERBERT. Yes, sir; I certainly can.

Senator STEVENS. I am pleased that you took the time to come all the way down here, Mr. Herbert. I have known you for a long time. And I hope you will set through this markup session tomorrow.

The following people are here from Alaska. They are scheduled for tomorrow's witness list. But it is my understanding they do not wish to testify. On behalf of the chairman of the committee I want to welcome you here in any event. And whether you wish to testify or if you wish to present a statement, you should come forward at this time, or if you wish to file a written statement, I am sure the chairman would be very pleased to receive it. Some of the people are out in the hall now, I guess.

Miss Laura Bergt, from Fairbanks; Mr. Harry Carter, the president of the Kodiak Island Native Association; Mr. Flore Lekanof, who was previously on the witness stand; Mr. Moses Paukan, village council president and member of the State of Alaska House of Representatives; and Mr. Ray Christiansen, State senator from Bethel was here; and Representative Carl Moses of the Aleut League.

If any of you wish to make a statement, or to file a statement, we will be very pleased to have it.

Is there anyone else here that would like to present a statement to the committee before this hearing is closed?

I am advised by the staff that the record will be open for 10 days following today for anyone who wishes to file additional material or statements. It would be in the chairman's judgment as to whether it would be printed in the record or placed in the committee's files, but we would welcome any statements within the next 10 days, or any additional material.

If there is no further matter to come before the hearing, I would like again to remind you of the proposed meeting tomorrow. And it is my hope that this conference will give us an idea of the scope of the disagreement involved in these proposals. We hope on behalf of the State you will stay and participate.

Is that correct?

Mr. PRICE. Yes, Senator.

Senator GRAVEL. Mr. Groh?

Mr. GROH. I am informed that this room will be available here in the afternoon. There is a short hearing tomorrow morning of the High Commissioner for the trust territory, and following that this room will be available to the Alaskan group to meet around the table and discuss the matter. We hope that that will be a productive session.

Senator GRAVEL. As previously stated, the record will be open for 10 days for additions to your statements or for any new material that is pertinent. Material received will be printed at this point in the record.

(The material referred to follows:)

CHUGACH NATIVE ASSOCIATION,
Anchorage, Alaska, April 28, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs
Washington, D.C.

DEAR SENATOR JACKSON: I wish the following testimony to be included in the record on the hearings on the Alaska Native Land Claims Settlement Act of 1969.

I, Cecil Barnes, represent the Chugach Native Association, and am presently a member of the Alaska Federation of Natives Board of Directors, and serve on the Governor's Native Land Claims Task Force.

The Claims of the Native people of Alaska to the land and the resources of Alaska have been a source of conflict between the State of Alaska, the Native people of Alaska and the Federal Government for a number of years.

This conflict is made possible because the Natives of Alaska do have aboriginal title, generally referred to as Indian Title, but this Claim has not been proven. However, if the Native People of Alaska decided to ask that jurisdiction be conferred on the U.S. Court of Claims, it would undoubtedly result in the affirmative that the natives of Alaska, would in fact have Indian Title to lands or the extinguishment of Indian Title by payment for it. However the natives of Alaska in their wisdom, realizing that court action to hear and determine their case would take several decades, decided that it would be to the interest of all parties, to pursue a political settlement for their land claims.

The Declaration of Policy of S–1830 is that the "Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by the Natives and Native groups of Alaska. It is therefore the position of the Chugach Native Association of Alaska that S–1830 is a politically oriented legislative proposal, to settle the Native Land Claims in Alaska, as a result of the cohesion between the Natives of Alaska, the State of Alaska, and the Federal Government, and that S–1830 is an alternate to that which can be pursued in the Courts of the United States.

It follows that any identifiable group of Indians, who have Indian Title to lands or the extinguished Indian Title to lands in Alaska, simply do not have the right to participate in the General Native Land Claims of Alaska, because Indian Title is not negotiable, and would take special legislation to dispose of it.

The Chugach Native Association does not feel that the General Native Land Claims should be used as a vehicle for the special interest of any tribes, whose case has been heard and determined in the United States Court of Claims.

Generally speaking S–1830 is a good constructive proposal, and is an excellent starting point. However, because it reflects the thinking of the Federal Field Committee, which is the foremost study of the Natives of Alaska and their social and economic conditions, never-the-less does not cover the true picture of the Eyak Indians and the Chugach Eskimo and their relationship to the land, and is not acceptable to the Chugach Native Association.

Sincerely yours,

CECIL BARNES,
Field Representative of the
Chugach Native Association.

JUNEAU, ALASKA, *April 28, 1969.*

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
Washington, D.C.

DEAR SENATOR JACKSON: The City Council of the City of Juneau has strongly endorsed the bill introduced by yourself and Senators Gravel and Stevens intended to settle the Alaska Native land claims. It is the City's understanding that this particular bill, *SB 1830*, adopts the recommendations of the Alaska Federal Field Committee and resolves the problem in an equitable manner. Further, I have discussed the matter with Mr. Jim Austin, President of the local Alaska Native Brotherhood group, and their organization also supports this legislation.

Therefore I would appreciate your indicating at the proper time and place that the City of Juneau supports this legislation. In addition, your work on this matter is appreciated.

Yours very truly,

M. B. WINEGAR,
City Manager.

AHTNA TANAH NINNAH ASSOCIATION,
Copper River Center, Alaska, March 26, 1969.

Hon. TED STEVENS,
Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENS: Thank you for your letter of March 20.

The Association would like the committee to insist that they include within their whole idea that they originally had in the A.F.N. bill that whatever money comes out of the Indian Claims Commission is deducted from whatever money comes out of the overall settlement and share all other parts of the overall settlement.

Thank you for your cooperation.

Sincerely yours,

MR. ROY S. EWAN,
President.

MANLEY-HOT SPRINGS, ALASKA, *April 30, 1969.*

Re Senate Bill 1830, Alaska Native Land Claims.

Congressman POLLOCK,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN POLLOCK: As the oldest continuous resident of Manley-Hot Springs, Alaska, I would like to give you a brief history of our town as well as other pertinent information of our particular area containing 50 square miles and known as the Manley-Hot Springs Mining and Recording District, Fourth Judicial Division, Alaska.

(1) That Manley-Hot Springs never was a native village at any time since it became a community.

(2) That not a single Indian lived and earned a livelyhood as a resident of this community until recent years.

(3) That the area of Manley-Hot Springs Mining and Recording District should not be blanketed by Alaska Native Land Claims because, as stated, no natives lived and made a living in said area except as follows: In that portion thereof south of the Tanana River—Including the Kantishna, Zitziana, and Cosna Rivers flowing from their headwaters approximately 20–25 miles south of the Tanana and into it.

(4) Only three Indian families now live at Manley-Hot Springs and they moved into the town during the past 9 years. The men of said families have been employed with the Department of Highways and local business in said town.

(5) Manley was formed as a small community between 1902 to 1904 when prospectors, miners, and farmers came into the area in numbers. They found gold and tin rock in plentiful amounts and the farmers produced great amounts of vegetables, potatoes, grains, chickens, pigs, cows etc. from the land. All of these operations were performed by white men both as operators and labors.

(6) As for myself, I worked in the gold and tin mines, prospected, cooked, and trapped in the Manley area from 1926 through 1933. From 1934 until now I have been a United States Commissioner and State Magistrate and also was the local Postmaster for 33 years.

I and all of us here at Manley-Hot Springs are seriously concerned about selection of our area as part of the Native Land Claim Selection. Manley still is a mining camp and tourism is now becoming a real boon to our economy. We feel that if one or two townships of our land is taken it will kill our tourism and mining. It will stop persons, other than natives, from coming to our town to select small land parcels and contribute to our community.

We cannot understand why this Alaska Native Land Selection was ever made in the first place before any investigation was made by some responsible person coming to our community to find out what the real score is or was concerning the area. The residents and business' of Manley have heavy investments made and have sacrificed much to make the going economy of our town. We now trust the Congress will use extreme care and correct this serious matter. We are anxiously looking forward to hearing from you.

Sincerely and Gratefully,

GUS A. BENSON, *Magistrate.*

AUBURN, WASH., *April 8, 1969.*

Senator HENRY M. JACKSON,
Chairman, Senate Interior and Insular Affairs Committee.

DEAR SIR: Reference your letter of February 26, 1969 and mine of January 14, 1969. I want to thank you for the enclosed copy of statements in your letter.

Now about all the poor Alaska native. My definition of the Bureau of Indian Affairs is a well organized group of Hypocrites. If the Alaska natives were lazy, lacking in personal ambition or personal resources he could not have survived here for so long. He is a strong, generous able individual. But today he is caught between two worlds and if his life is appalling and embarassing to the non-native observer, it can be shamefully degrading to the individual involved and they are beginning to grow angry and impatient at the conditions that exist today after decades of Federal environment now under the set up of the BIA. It draws all the valture in the country to it and the native schools are a big joke the whole set up for the natives of the United States and all of Alaska is all valture bait with graft corruptness and the living constitution are worst than the animal laws here in the states. If you treat animals here like you do the native you would be in court. The cows are better off than the Alaska natives.

In the Southwest at Bethel and the villages beyond you do not hear much criticism of the Government colony. The well water and sewers are almost unknown in the native parts of the community. The White Man does not consider the Eskimo pride, and the only thing that the White Man has given the Eskimos that really has been effective is "Tuberculosis." The same corruptness is at Kotzebue. Government employees station at Kotzebue live inexpensively in warm, well-heated and roomy modern quarters separated from the native section of town.

They have two things that the natives do not have; running water and sewers which are unknown in the other parts of the community. Human waste is deposited in five gallon cans. Such condition, of course, presents health problems.

In 1884 Congress also received for itself the right to make the final decision on native land ownership; today 84 years later that decision has not been made.

Please tell me where all this Justice and Equality is that you people talk about all the time in books and papers and all around the world.

Need I have to say anymore? If I have to, I will and I am. Do you want me to write for the newspaper?

Yours truly,

R. W. ARMSTRONG.

AUBURN, WASH., *April 9, 1969.*

Senator HENRY M. JACKSON,
Chairman, Senate Interior and Insular Affairs Committee.

DEAR SIR: I am a Native Aleut and there is only eight-hundred of my people left. I am one Aleut out of eight-hundred that is left that have made the transition from the old culture to the new and was sent out to schools and hold eight college degrees. I will enclosure a list of degrees that I hold.

I am holding four old Bibles, a 1760, 1800, 1860, and 1880, and in them is a Mort-Main and it goes back to 1827–1829 and will send you photostat copies from an old Bible.

Now I am asking you to help me to get that land for all the Aleuts and Eskimos and set up a corporation for the natives of the Arctic slope, Native Association, Box 214, Barrow Alaska. I am asking your help because there is going to be over a million dollars in oil and over a million dollars in mineral rights up there. I know of a dozen different minerals and there is a lot more.

All I want for that land is a deed for the Arctic and Alpine Core—Kodiak Island and a corporation set up for my people. I want to put them to work and not make bums out of them and send them all to schools and make something out of the young. I would come down there and talk for them all.

Now in the year 1867 they were supposed to honor all those land deals from the Russians. My people from 1760 to June 6, 1912, when the Katmia blew its top, my people lived in Alpine Core and the native village up the Katmia River but on October 9, 1909, smallpox hit and my brother and sister and my father's brother and sister and brother and sister of my mothers people are all buried in the Katmia National Park up the Katmia River in the native village that was there. Maybe you can see why I ask you for "Help" for all those Poor People.

I would like very much to come down there and talk to you about all this set up. Will keep my fingers crossed until I hear from you.

Yours truly,

R. W. ARMSTRONG.

Story of a Native Aleut

(By R. W. Armstrong)

At Alpine cove is the first home that I remember with our floating dock that went up and down with the tide and a huge oak frame for stretching Ivook skins for making Kayak and Oomiak boats.

My father took my older brother away and left him at a boats works to learn to build Lap strake and other construction methods.

When my brother came back home he was 21 years old and I was 10 years old and my mother and older sisters, They taught me to build Skin and wood boats and treat raw skins for the Kayak covers and the gutskin Parka and how to treat my deer skins to make my pants and shirts and how to do the stretching of the skins for boats.

They would punch round holes six inches apart all around the skin and then with rawhide laces them into the oak frame and tightened by means of bone put between the rawhide and turned to make a turnbuckles to stretch the hide out and wet every day and tighten them all around the frame day after day till they were ready to be split lengthwise and cut them to fit the boat.

After a few years when the old boat cover came off the boat frame. It was save to make Mukluks.

After my sister Ruth, Brother Bill and aunts and uncles all died of Smallpox at the native village up the Katmi River, Oct. 3, 4, 5, 6, 1909 my father took my brother Ralph and me out to fish cod fish in the Bering Sea in cod dory with hook and line, Ralph went with me a few times. Then I was on my own, Boy did it get foggy I was told not to get too far away from the ships Bell.

One time I went to the Bell, But it was not my dad's boat, They were very nice to me they stopped there bell so I could hear our bell so I got headed to our boat.

When we did not fish, we build new cod fish Dorys 16 Feet long with oak stern and rib bands with copper nails.

They builded me a good little sail boat with a small gas engine in it 32 feet long 10′ beam to fish the rock crabs.

I had 12 crab pots and used to run up cooks inlet to set them.

In June 6, 1912 I will never forget it Mt. Katmai blew its top out that day that catastrophe is clearly etched in my mind yet today.

At five o'clock in the afternoon the sun went out and it was getting dark out and the ash sifted through cracks on the roof and around the windows and doors and the ash continued to fall steadily with a slight lull around 11 o'clock that first night, It drifted like snow, swirled and eddied filled the eyes and nostrils and became swollen, so inflamed, close to blindness.

The earth shocks noise and gas continued all the first night,

Father and my brother and crew was out fishing and did not get back until three days later how they made it back home I will never know because ash was still falling and was floating all over the ocean.

We had a big wood shed and I had some pet Ermine and 15 young from the spring and a few Mink.

I went down to our dock and took a broom to sweep the ash off the plank that run from log to log out to the float my boat was tied there and I had feed for my pets on it I had to clean the ash of my boat before that I could get into it to get the food for my pets I then took a canvas sail and throw it over my boat to keep the ash out.

The whole ocean was covered as far as I could see out.

I took the feed and went back to the wood shed it was flat on the ground and I could not fine my pets so I went back to our home. My mother and sister had been sweeping the ash out of the house but now there was no place to put it any more and my room at the back of the house was full of it the wind had blew it down of the hill behind the house and it was slowly pushing the house in and filling it up.

I started to take things down to my boat when I hurd a Bell and a whistle out in the cove.

My father and brother and crew was coming slowly up the cove to our Dock they had the pumps going on the boat to hoes the ash off the deck and house. They turned them on to the float dock and washed all the ash off into the bay. It did not take to long to load the few things from the shop and house into the hole on the boat. They picked up the row boats and cod fish Dorysout of the ash in the bay.

We got the last of the things out of the house when it fell in and it made the ash fly high.

We went slowly back out to the ocean and run South to Fox island were in a few weeks we had a new house going up.

I had a new Lapstrake whale boat 16 ft. long for my sail boat I used to tow it all over with me because my sail boat had to stay a long ways out on the sand beaches so I had my Whale boat to go a shore in and in bad weather I used the boom to load it on top of my cabin on the sail boat.

One day in 1915 I left Fox island to run up to alpine cove and look at our old home there was a lot of that ash there yet. The rains wash it down of the hill into the bay and lots of it on the beach to.

I was going to go over to cooks inlet to set my crab pots as my mother and sister did not like Mr. King Crab. So I would get them little Rock crab from far up cook inlet.

That night I will remember all the rest of my life. The flat was all covered with white walled tents, Tupeks, with lanterns inside and out side.

So I watched them start to build the town of anchorage first Tupeks and then the wood building and the wooden side walks in front of the building.

I can still see that first hand pump made of boards square and a sign that said 25c a pail.

After a few years they put up docks and the first store keeper had put down roots that are still there today.

I would not know Anchorage to day, But I hope to run my new Yacht up there and take a good look after all these years for many things have moved into there by now.

I would like to move back home this year to my country and spend the rest of my life up there at alpine cove I would like to build a new school and teach the Native how to build boats As I am A Naval Architect and Yacht Builder also build me a new Home and dock Where i was happy many years of my life.

One day I came back to fox island and my father boat was there and I got some bad news at that time we was being shiped out to get an Education Marion and me had to leave Gods Country and go south and east it was 28 years before we came back and we did not know the place it had change so much even we had change too.

Some day I would like to get me a birth certificate from up there and I would like to put a tombstone for nine generations of one family from 1760 to 1909 with burial all in the Katmia National Park or the Valley of ten thousand Smokes.

Tcheripanoff. Ammmatuck. Armstrong.

I have a Brother And Sister up there and a Daughter and Son and Grand son at Anchorage.

R. W. Armstrong,
The Yuit.

Senator Gravel. If there is nothing further, this hearing is now adjourned. Thank you very much.

(Whereupon, at 5:10 p.m. the committee adjourned, to reconvene subject to the call of the Chair.)

APPENDIX

(Frederick Paul, attorney for Arctic Slope Native Association, submitted a collection of essays for background material on the native land claims. The essays are in the committee's official files.)

SEATTLE, WASH., *April 23, 1969.*

Re Alaska Native Land Problem.
The Honorable HENRY M. JACKSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: As attorney for the Arctic Slope Native Association, I enclose a collection of my essays for background material for the Hearing of the Senate Committee on Interior and Insular Affairs that you, as Chairman, have set for April 29–30, 1969.

Yours truly,

FREDERICK PAUL,
Attorney for Arctic Slope Native Association.

STATEMENT OF THE SIERRA CLUB ON THE SUBJECT OF ALASKAN NATIVE CLAIMS TO THE SENATE INTERIOR COMMITTEE

Mr. Chairman, my name is Lloyd Tupling. I am the Washington Representative of the Sierra Club, a national conservation organization of 75,000 members. I am presenting a statement today prepared by the club's Conservation Director, Michael McCloskey.

In recent years the Sierra Club has developed a growing interest in the problem of maintaining the quality of Alaska's environment amidst the pressures for industrial development. Its interest in Alaska, however, can be traced back to the pioneering studies which its founder, John Muir, did in what is now Glacier Bay National Monument.

We wish to offer testimony on the subject of settling the land claims of Alaska's natives because of the profound effect which such a settlement can have on the pattern of land ownership and management in Alaska's future. With native claims covering 80 percent of Alaska's land and conflicting with much of the state's own desire to select lands under the Admission Act, basic questions are at hand about who will own and manage much of Alaska and on what terms.

While the Sierra Club is interested in conserving the land and its biota, we are also interested in conserving its native people, who are, in a large sense, a part of that biota. And we are not only interested in conservation, we are also interested in justice. Settlement of the Alaskan native claims question, in our estimation, will require a blending of the needs of conservation, justice, and cultural self-determination.

There seems to be a fair measure of agreement on two basic considerations in providing a settlement: (1) that the settlement should accommodate freedom of choice among natives as to whether they wish to pursue their traditional life or become culturally assimilated; and (2) a settlement should embrace a combination of land grants, cash payments, and subsistence rights. Judgements, however, on the means of accomplishing these ends differ widely and reflect varying premises, priorities, and weighting of equities. For the record, we would like to state our view of these premises and equities and the conclusions they suggest about the preferable means of achieving a settlement.

One, we regard the natives as good conservationists. They are the aboriginal stewards who kept the land in what we regard as virgin condition. We are not fearful of large land grants to the natives as part of any settlement. We think their record is good, and fear only that land whose titles is committed to them

might eventually find its way out of their hands. Abuse and exploitation are most likely to be encountered if the land falls into private ownership by non-natives.

Two, we think a settlement should *not* be weighted toward encouraging assimilation and acculturation. Acculturation too often results in a loss of native skills, loss of cultural identity and pride, and adoption of modern habits and tools of exploitation. A fine line must be walked between encouraging economic improvement and forced acculturation. Proud talk about avoiding a racially defined solution may actually be a mask for forced acculturation.

Three, we are skeptical of any solution which attempts to force the natives wholly into the mold of Anglo-Saxon institutions of property law. They are oriented toward use of land and its usufruct, rather than ownership. They are oriented toward shared and group use, rather than absolute private control and ownership. They are oriented toward broad patterns of use, rather than use confined to parcels defined by metes and bounds. Their perception of rights springs from traditional use and occupancy, not from their success in surviving a complicated procedural obstacle course of application laws decreed in remote Capitols in languages foreign to them. Justice for the natives should require that America accommodate its laws to fortify their institutions, not to bend them to ours.

The dismal record of the Allotment Act of 1887 and the Alaska Native Allotment Act of 1906 demonstrates the fallacy of trying to make yeoman farmers out of natives. American Indians lost two-thirds of their land claims under the Allotment Act of 1887, with little done in return for the Indians but with considerable enrichment in the process for non-natives. In trying to settle Alaskan native claims in 1969, we must bend every effort to learn from a century of failure.

Four, we should acknowledge that our obligation to compensate Alaskan natives for lands taken from them is a *national* obligation. While the economic productivity of Alaskan lands in general may provide a measure for estimating the economic worth of the lands taken, there is no inherent reason for limiting the source of payment to Alaskan revenues nor making payment contingent on the actual flow of revenues. To arrive at a final settlement of the matter, the natives must be guaranteed a sum certain which will be paid from the federal Treasury. Earmarking Alaskan mineral revenues now destined to be remitted to the federal Treasury can only encourage fruitless competition and controversy. The natives and the state will compete over the fairness of relative allocations, and both will be forced to promote a headlong rush to squeeze every possible mineral dollar out of the state's topography, with untold damage to be done in the process. Inasmuch as these monies would be destined, in any event, to be intermingled with other monies in the federal Treasury, the federal government should avoid resorting to the legal fiction of earmarking Alaskan revenues and instead should be straightforward in guaranteeing payment of a fixed sum directly from the federal Treasury.

Five, while we must confess a certain reluctance to see lands in National Wildlife Refuges and National Forests granted away for any purpose, including the satisfaction of native claims, we also recognize that justice in this instance may require it. There are ten occupied native villages now in five Wildlife Refuges, and there are a number of other historic village sites in Wildlife Refuges and National Forests. There are none in units of the National Park System. We would accede to transfer of control to the natives of occupied village site in these reserves and limited areas immediately around these sites. However, we think in lieu lands could be granted for abandoned villages. Moreover, we think that the grants of control should be conditioned on use which is generally in conformance with the purposes of the reserves, that the grants should not be alienable, and that a reversionary interest should be retained by the federal government in case of future abandonment. We feel a somewhat more restrictive policy of native grants is necessary in federal conservation reserves because of the need to balance conservation requirements (which should generally benefit the natives) against the equities of native claims.

In light of the foregoing premises, we must express certain reservations about the futures of the settlement plan recommended by the Federal Field Committee. We think the most admirable feature of this plan is the recommendation that a Native Development Corporation be established that will be the recipient of the cash payment. Establishment of such a corporation provides a mechanism for treating acculturated and unacculturated natives in an equal manner, and it looks toward economic improvement and guards against dissipation of the cash settlement. It is important to note, too, that it provides a flexible vehicle for

investment that is not limited to reinvestment in native lands. Thus, it does not necessarily force acculturation or modernization.

However, as we suggested earlier, the Field Committee plan does not award a sum certain in making a cash payment. Rather it allows payments of up to $100 million per year for a ten year period, providing potentially as much as $1 billion. If the federal government should be willing to pay this much and this is regarded as an equitable amount by the natives and by federal authorities, then this amount should be made a definite obligation. This will allow the Native Development Corporation to plan with some certainty, and will assure that the contentions surrounding this matter are finally laid to rest.

We feel there are many weaknesses in the land grant provisions of the Field Committee plan, and far prefer the general approach suggested in Title II of the legislation introduced last year by Senator Ernest Gruening (S. 2906, 90th Cong., 2d Sess.). Senator Gruening's bill provided for land grants under a formula that would transfer larger holdings to the natives. Moreover, transfer is made to native groups rather than to individuals and title is not alienable, except to other natives. In general, there seem to be better trust provisions in the Gruening bill and the burden is more clearly placed upon the Secretary of the Interior to act on behalf of the natives in making claims if they fail to do so within stipulated time periods. Moreover, in the Gruening bill there is no separation of the mineral and surface estates.

These distinctions are important. They can make the difference between having land ownership split into a fractionated pattern that makes no topographical or ecological sense, or having land control consolidated into more workable units. The legacy of the railroad land grants should have taught us a lesson about the problems created by scattered or random grants in wildlands. A large land grant will make it unnecessary to have 5, 10, and 160-acre parcels scattered across the landscape as the Field Committee plan suggests. Large land grants will also give the natives control over more of the wildlife habitat on which their subsistence depends.

By making the grants to groups rather than individuals and by making them inalienable, we will guard against having small parcels drift out of native ownership over a period of time, with the best sites inevitably finding their way into the hands of non-natives. By making the Secretary continue to bear a trusteeship responsibility, we will ensure that the natives do not suffer any purported forfeiture of their claims through failure to act fast enough in conformance with the settlement act. And by keeping the surface and mineral estates together, we will assure that game ranges and streambeds are not uprooted by mining operations that are supposedly being conducted in their financial interests, but actually against their will.

Finally, let us state our clear opposition to opening areas withdrawn to settle native claims to filing by non-natives where this is not now possible. For instance, under the cover of settling native claims, there is absolutely no reason to open Alaska's wildlife refuges to private claims by non-natives, as Sec. 10(i) of S. 1830 would apparently allow. This possibility may be an oversight in drafting, but no distinction is made under this section, for instance, between sales to non-natives on National Wildlife Refuges in contrast to land administered by the Bureau of Land Management. Justice to the natives may require some disposition of refuge lands to natives, but it does not require any similar disposition to non-natives. Except where extraordinary considerations of justice require it, these conservation areas should be closed to private claims.

In summary, we advocate a settlement that will combine the best feature of the Field Committee plan—the Native Development Corporation, with the general approach to land grants contained in the bill introduced by former Senator Gruening.

Information Pertinent to Alaska Communities Cited for Withdrawal in S. 1830

The attached report references known information to those Alaska communities cited for withdrawal in S. 1830, the "Alaska Native Land Claims Settlement Act of 1969."

The following information is shown: (1) the status of completed or planned community surveys; (2) the region of the state in which the community is located; (3) protracted township designations in which all or part of a village is contained; (4) the form of present government; (5) the estimated Native, white, and total population; (6) the communities inclusion within or in close

proximity to federal withdrawals; and (7) the status of state land selection affecting particular communities.

All of the following data is in one way or another subject to definition and to limitations of accuracy. The following definitions and limitations apply.

1. *Survey Status.*—Survey status is coded as (1), (2), or (3) or blank. Survey status (1) indicates the village townsite has been surveyed by the Bureau of Land Management, or in rare cases by the State of Alaska. Status (2) indicates that the Bureau of Land Management plans the survey of this community townsite during the calendar year 1969. Status (3) indicates that the Bureau of Land Management plans the survey of this community townsite during calendar year 1970. A blank status indicates that the survey of village townsite is neither completed nor planned in 1969 or 1970.

2. *Region.*—The regions referencing a village's location are those regions used for analysis purposes in *Alaska Natives and the Land.*

3. *Whole Townships Within Which All or Part of a Village is Contained.* Townships identified with particular villages are taken from the most reliable maps and protraction diagrams. In Alaska these are neither complete nor totally reliable. Protraction diagrams (surveys) are a mathematical projection of the rectangular system of public land surveys; in essence, a blueprint for surveys. Topographical and cultural features for these diagrams are taken from most recent editions of U.S. Geological Survey (USGS) or U.S. Coast and Geodetic Survey (USC&GS) maps of the areas at the time the protractions are made.

All of Alaska, except southeastern and the Aleutian Islands, were protracted in the last 1950's using USGS or USC&GS maps of 1954 or earlier vintage for topographic and cultural features. The accuracy of these maps and the system used to transpose the information to the protraction diagrams has created some error in the actual location of topographic and cultural features in relation to the township or sections shown by the protraction diagrams. Subsequent cadastral surveys and newer editions of USGS and USC&GS maps indicate that this latitude is normally less than three miles and often contains no error of concern. There are some areas, however, especially in southwest Alaska, where error of as much as ten miles has occurred.

Consequently, the identification of villages with townships for withdrawal must be taken as a matter of intent rather than complete accuracy until the withdrawal process is actually operational.

4. *Form of Present Government.*—The description is based upon latest information available. If organized under state law, the village is identified by class of city (e.g., 2C=second class city). Native councils established under Indian Reorganization Act are identified as IRA. Villages whose local governing bodies have no legal status are identified as "Traditional."

5. *Estimated Population.*—Estimated populations of places having schools are reasonably accurate, but are not, in most cases, based on exact counts. Estimates of population in the larger communities are less reliable than of the smaller places. There are conflicting reports about some village sites named—they may be settlements of a few families or none on a year-round basis; these village sites are marked by an asterisk.

6. *Within Federal Withdrawal.*—This column shows the name of federal withdrawals within which particular places may be located. In some cases an asterisk is used to indicate a particular withdrawal near or adjacent to a village. Although this list illustrates the major places of conflict between villages and federal withdrawals, it is not complete, particularly with reference to power site withdrawals and small military stations, data for which is difficult to obtain. Abbreviations used include:

NW Ref.—National Wildlife Refuge
Nat'l. Forest—National Forest
Nat'l. Forest—National Forest
Pwr. Site Wdrl.—Power Site Withdrawal
Nav. Res. Pet 4.—Naval Petroleum Reserve No. 4

If there is no identification with withdrawn lands, the column is blank.

7. *Status of Conflicts with State Selection.*—The state selection process has three administrative categories "selection," when the state advises the Bureau of Land Management of its interest in securing title; "tentatively approved," when the Bureau of Land Management has completed an initial screening of the lands selected by the state and advises the state that the process of patenting lands to the state will proceed; and "patented," when final title has been vested in the State of Alaska. These three categories are used to describe lands appertaining to specific villages where applicable. If no conflict with the state selection process is present, the column is blank.

Name of village	(Survey status)	Region	Whole townships within which all or part of village is contained	Form of present government	Estimated population: Native	White	Total	Within Federal withdrawal	Status of conflict with State selection
Akhiok	(2)	Kodiak	T37S,R31W(Seward)	Traditional	128	1	129	Kodiak NW Ref	
Akiachak	(1)	Southwest Coastal Lowland.	T9N,R69W;T10N,R69W(Seaward).	IRA	313	9	322		
Akiak		do	T9N,R67W;T10N,R67W(Seward)	IRA	164	4	168	Akiak Native Reserve	
Akutan		Aleutian	No protractions;wd 23,040 acres appertaining to village	Traditional	98	0	98	Akutan Native Res.[1]	
Alakanuk	(1)	Southwest Coastal Low-	T30N,R81W(Seward).	do	406	10	416		
Aleknagik	(1)	Bristol Bay	T10S,R56W;T10S,R55W(Seward).	do	174	64	238		Selected.
Alatna	(3)	Koyukuk-Lower Yukon	T20N,R24W(Fbx)	do	129	38	167		
Allakaket		do	See Alatna	(2)	(2)	(2)	(2)		
Ambler	(1)	Bering Strait	T20N,R5E(Kateel Riv)	Traditional	155	14	169		
Anaktuvuk Pass	(2)	Arctic Slope	T15S,R2E(Umiat)	4C/Traditional	121	3	124		
Andreafsky	(3)	Southwest Coastal Lowland.	See St. Mary's	Traditional	63	0	63		
Angoon	(1)	Southeast	T50S,R67E;T50S,R68E (Copper River).	4C/IRA	400	10	410	Tongass Natl Forest	
Aniak	(1)	Southwest Coastal Lowland.	T17N,R56&57W(Seward)	Traditional	90	35	125		
Anvik		Koyukuk-Lower Yukon	T30N,R58W(Seward)	do	87	7	94		
Arctic Village		Upper Yukon-Porcupine	T15S,R28E;T15S,R29E(Umiat)	do	88	2	90	Chandalar Native Res. & Rampart Pwr Site.	
Atka		Aleutian	No protractions; w/d 23,040 acres appertaining to village.	IRA	101	2	103	Aleutian Is. NWR	
Atkasook		Arctic Slope	T13N,R21W(Umiat)		(1)	(1)	(1)	Nav. Res. Pet. 4	
Barrow	(1)	do	T23N,R18W;T22N,R18W(Umiat)	4C/Traditional	2,000	155	2,155	do	
Beaver	(2)	Upper Yukon-Porcupine	T18N,R2E(Fbx)	Traditional	96	7	103	Rampart Pwr Site Wdrl	
Belkofsky		Aleutian	T59S,R84W(Seward)	do	49	1	50		
Bethel	(1)	Southwest Coastal Lowland.	T8N,R71W(Seward)	4C	1,500	500	2,000		Selected.
Bill Moore's		do	T33N,R76W(Seward)		(1)	(1)	(1)	C. Rhode NWR[1]	
Biorka		Aleutian	No protractions; w/d 23,040 acres appertaining to village.		(1)	(1)	(1)		
Birch Creek	(1)	Upper Yukon-Porcupine	T17N,R9E (Fbx)	Traditional	33	1	34	Rampart P.S.Wd1	
Brevig Mission	(1)	Bering Strait	T2S,R38W(Kateel River)	do	117	3	120		
Buckland	(1)	do	T7N,R12W(Kateel River)	4C/IRA	97	1	98		
Candle		do	T6N,R16W; T6N,R15W(Kateel Riv).		13	2	15		
Cantwell	(1)	Cook Inlet	T17S,R7W(Fbx)	Traditional	31	60	91	Railroad Twnsite	Do.
Canyon Village	(1)	Upper Yukon-Porcupine	T27N,R26E(Fbx)	do	(1)	(1)	(1)	Rampart P.S.Wdl	
Chalkyitsik	(1)	do	T21N,R18E;T21N,R19E(Fbx)	do	89	4	93	do	
Chaniliut		Southwest Coastal Lowland.	See Kotlik		(1)	(1)	(1)		

Name of village	(Survey status)	Region	Whole townships within which all or part of village is contained	Form of present government	Estimated population			Within Federal withdrawal	Status of conflict with State selection
					Native	White	Total		
Chefornak	(1)	do	T1N,R86W(Seward)	do	140	5	145	C.Rhode NWR	
Chevak	(1)	do	T17N,R89W(Seward)	4C	394	8	402	do	
Chignik	(1)	Kodiak	T45S,R58W(Seward)	Traditional	84	6	90		
Chignik Lagoon	(1)	do	T45S,R60W(Seward)	do	36	7	43		
Chignik Lake	(2)	do	T45S,R61W(Seward)	do	117	0	117		
Chistochina		Copper River	T9N,R43E(Copper Riv)	do	47	45	92		
Chukwuktoligamute		Southwest Coastal Lowland.	T13N,R81W(Seward)	do	(1)	(1)	(1)		
Circle	(1)	Upper Yukon-Porcupine	T12N,R18E(Fbx)	Traditional	30	20	50	Rampart P.S. Wdl	
Clark's Point		Bristol Bay	T15S,R56W(Seward)	do	94	6	100		
Copper Center		Copper River	T2N,R1E;T2N,R1W(Copper River).	do	95	57	152	Copper Cen. Indian Reserve	Tentatively Appvd.
Craig	(1)	Southeast	No protractions; w/d 23,040 acres appertaining to village.	2C/IRA	150	90	240	Tongass Nat. Forest	
Crooked Creek		Upper Kuskokwim	T21N,R48W(Seward)	Traditional	78	4	82		
Deering		Bering Strait	T8N,R19W(Kateel Riv)	IRA	91	2	93		
Dillingham	(1)	Bristol Bay	T13S,R55W(Seward)	2C	850	150	1,000		Selected.
Dot Lake		Tanana	T22N,R7E(Copper Riv)	Traditional	34	8	42		Tentatively Appvd.
Eagle	(1)	Upper Yukon-Porcupine	T1S,R32E; T1S,R33E; T2S,R33E(Fbx).	1C/Traditional	43	40	83		
Eek	(2)	Southwest Coastal Lowland.	T2N,R74W(Seward)	Traditional	186	4	190		
Egegik	(2)	Bristol Bay	T23S,R50W; T23S,R49W (Seward).	do	150	32	182		Do.
Eklutna		Cook Inlet	T16N,R1W;T16N,R1E (Seward).	do	35	0	35	Eklutna Native Res; Eklutna P.S.Wdl.	Selected.
Ekuk		Bristol Bay	T16S,R56W(Seward)	do	33	1	34		
Ekwok	(1)	do	T9S,R49W;T10S,R49W (Seward).	do	89	6	95		
Elim		Bering Strait	T10S,R18W(Kateel Riv)	IRA	153	3	156	Norton Bay Native Reserve	
Emmonak	(1)	Southwest Coastal Lowland.	T31N,R80W(Seward)	4C	396	11	407		
English Bay	(1)	Cook Inlet	T9S,R16W(Seward)	Traditional	50	2	52		Tentatively Appvd.
False Pass		Aleutian	T61S,R94W(Seward)		43	1	44	Aleutian Is. NWR	
Fort Yukon	(1)	Upper Yukon-Porcupine	T20N,R12E;T20N,R11E(Fbx)	4C/IRA	403	50	453	Ft. Yukon Native Res. Rampart P.W.Wdl.	
Galena	(2)	Koyukuk-Lower Yukon	T9S,R10E(Kateel Riv)	Traditional	236	40	276	Galena Military Station [1]	
Gambell		Bering Sea	T20S,R67W(Kateel R)	4C/IRA	407	8	415	St. Lawrence Reindeer Reservation.	
Georgetown		Upper Kuskokwim	T21N,R46W(Seward)	Traditional	28	2	30		
Golovin	(2)	Bering Strait	T11S,R22W(Kateel R)	do	84	4	88		
Goodnews Bay		Southwest Coastal Lowland.	T12S,R73W(Seward)	do	208	12	220		
Grayling	(1)	Koyukuk-Lower Yukon	T33N,R57W;T32N,R58W (Seward).	IRA	136	13	149		

Gulkana	(1)	Copper River	T6N,R1W(Copper Riv)	Traditional	77	83	160		Selected.
Hamilton		Southwest Coastal Lowland.	T32N,R77W(Seward)		15	0	15	C. Rhode NWR [1]	
Holy Cross		Koyukuk-Lower Yukon	T24N,R57W(Seward)	Traditional	204	6	210		
Hoonah	(1)	Southeast	T43S,R61E(Copper Riv)	1C/IRA	850	40	890	Tongass Natl. Forest	
Hooper Bay	(1)	Southwest Coastal Lowland.	T17N,R93W(Seward)	4C/Traditional	536	15	551	C. Rhode NWR [1]	
Hughes		Koyukuk-Lower Yukon	T8N,R22E(Kateel R)	Traditional	69	2	71		
Huslia		do	T3N,R12E; T4N,R12E(Kateel River).	do	152	10	162		
Hydaburg	(1)	Southeast	No protractions; w/d 23,040 acres appertaining to village.	2C/IRA	195	20	215	Tongass Natl. Forest	
Igiugig		Bristol Bay	T10S,R39W(Seaward)		30	1	31		
Iliamna & Newhalen		Cook Inlet	T5S,R33W(Seward)	Traditional	94	34	128		
Inalik (Little Diomede Is.)		Bering Strait	T4N,R49W(Kateel R)	IRA	68	2	70	Little Diomede Native Res	
Ivanof Bay		Aleutian	T49S,R66W(Seward)	Traditional	49	2	51		
Kake	(1)	Southeast	T56S,R72E(Copper R)	1C/IRA	500	37	537	Tongass Natl. Forest	
Kaktovik	(1)	Arctic Slope	T9N,R33E;T9N,R34E(Umiat)	Traditional	151	9	160	Arctic NWR & Barter Is. Military.	
Kalskag	(1)	Southwest Coastal Lowland.	T17N,R61W(Seward)	do	159	3	162		
Kasaan		Southeast	No protractions;w/d 23,040 acres appertaining to village.		10	0	10	Tongass Natl. Forest	
Kaltag	(2)	Koyukuk-Lower Yukon	T13S,R1E (Kateel R)	Traditional	206	15	221		
Karluk		Kodiak	T30S,R32W(Seward)	IRA	104	2	106	Karluk Native Res	
Kasigluk		Southwest Coastal Lowland.	T9N,R75W(Seward)	Traditional	262	4	266		
Kiana	(1)	Bering Strait	T18N,R8W(Kateel R)	4C	236	12	248		
King Cove	(1)	Aleutian	T59S,R86W(Seward)	2C	275	25	300		
Kipnuk		Southwest Coastal Lowland.	T3S,R86W(Seward)	Traditional	302	4	306	C. Rhode NWR [1]	
Kivalina	(3)	Bering Strait	T27N,R26W(Kateel R)	IRA	170	3	173		
Klawock	(1)	Southeast	No protractions; w/d 23,040 acres appertaining to village.	1C/IRA	210	15	225	Tongass Natl. Forest	
Klukwan	(1)	do	T28S,R56E(Copper R)	IRA	96	4	100	Klukwan Native Res	Selected.
Kobuk	(1)	Bering Strait	T17N,R9E;T18N,R9E(Kateel R)	Traditional	56	2	58		
Koliganek		Bristol Bay	T5S,R47W(Seward)	do	128	6	134		
Kokhanok		do	T8S,R32W(Seward)	do	79	4	83		
Kongiganak		Southwest Coastal Lowland	T3S,R80W(Seward)	do	160	4	164		
Kotlik & Chaniliut	(1)	do	T28S,R26W(Kateel R)	do	247	9	256	C. Rhode NWR [1]	
Kotzebue	(1)	Bering Strait	T17N,R18W(Kateel R)	4C/IRA	1,620	235	1,855		
Koyuk	(1)	do	T6S,R12W(Kateel R)	IRA	158	2	160		
Koyukuk	(2)	Koyukuk-Lower Yukon	T7S,R6E(Kateel R)	Traditional	149	4	153		
Kwethluk	(1)	Southwest Coastal Lowland.	T9N,R69W(Seward)	IRA	417	7	424		
Kwigillingok	(3)	do	T4S,R81W;T3S,R81W(Seward)	IRA	179	4	183		
Larsen Bay	(1)	Kodiak	T30S,R30W(Seward)	Traditional	95	10	105	Kodiak NWR	
Levelock	(1)	Bristol Bay	T12S,R45W(Seward)	do	78	6	84		
Lime Village		Upper Kuskokwim	T15N,R34W(Seward)		29	0	29		

Name of village	(Survey status)	Region	Whole townships within which all or part of village is contained	Form of present government	Estimated population: Native	White	Total	Within Federal withdrawal	Status of conflict with State selection
Lower ksKaalg	(1)	Southwest Coastal Lowland.	T16N,R62W;T17N,R61W(Seward).	Traditional	169	10	179		
McGrath	(1)	Upper Kuskokwim	T33N,L33W(Seward)	do	125	125	250		
Makok		Koyukuk-Lower Yukon	T27N,R58W(Seward)		(1)	(1)	(1)		
Manley Hot Springs		Tanana	T2N,R15W(Fbx)	Traditional	32	18	50		Tentatively Appvd.
Manokotak	(1)	Bristol Bay	T14S,R59W(Seward)	do	199	10	209		
Marshall	(1)	Southwest Coastal Lowland.	T21N,R70W(Seward)	IRA	166	5	171		
Mary's Igloo		Bering Strait	T4S,R31W(Kateel R)		10	0	10		
Medfra		Upper Kuskokwim	T27S,R22E(Kateel R)		5	8	13		
Mekoryuk		Southwest Coastal Lowland.	T3N,R98W;T4N,R98W(Seward)	IRA	280	10	290	Nunivak NWR	
Mentasta Lake		Copper River	T13N,R8E;T13N,R9E(Copper River).		48	4	52		Do.
Minchumina Lake		Upper Kuskokwim	T12S,R24W(Fbx)						Selected.
Minto		Tanana	T1N,R8W(Fbx)	IRA	147	8	155		Selected & Tentat. Appvd.
Mountain Village	(2)	Southwest Coastal Lowland.	T23N,R79W(Seward)	Traditional	400	12	412	Mt Village Native Res	
Nabesna Village		Tanana	T7N,R13E(Copper R)		(1)	(1)	(1)		
Naknek	(1)	Bristol Bay	T17S,R47W(Seward)		212	127	339		
Napaimute		Upper Kuskokwim	T17N,R52W(Seward)		(1)	(1)	(1)		Selected.
Napakiak		Southwest Coastal Lowland.	T7N,R71W(Seward)	IRA	267	4	271		
Napaskiak		do	T7N,R72W(Seward)	Traditional	212	11	223		
Nelson Lagoon		Aleutian	T48S,R76W(Seward)	do	40	4	44		
Newhalen		Cook Inlet	See Iliamna	(3)	(3)	(3)	(3)		Do.
Nenana	(1)	Tanana	T4S,R8W(Fbx)	1C/Traditional	250	296	546	Porgie's Is. Native Res	Do.
New Stuyahok	(1)	Bristol Bay	T8S,R47W(Seaward)	Traditional	206	4	210		
Newtok		Southwest Coastal Lowland.	T10N,R87W(Seward)	do	124	2	126	C. Rhode NWR	
Nightmute	(3)	do	T5N,R88W(Seward)	do	116	2	118	C. Rhode NWR [1]	
Nikolai		Upper Kuskokwim	T28S,R23E;T28S,R24E; T29S,R23E;T29S,R24E(Kateel R).	do	114	3	117		
Nikolski	(1)	Aleutian	No protractions; w/d 23,040 acres appertaining to village.	IRA	67	5	72		
Noatak	(1)	Bering Strait	T25N,R91W(Kateel R)	IRA	265	10	275		
Nome	(1)	do	T11S,R33W;T12S,R33W (Kateel River).	1C/IRA	1,950	850	2,800		
Nondalton	(1)	Cook Inlet	T2S,R32W(Seward)	Traditional	239	1	240	Pwr Site Wdl	(Private land).
Nooiksut		Arctic Slope	T12N,R4E(Umiat)		(1)	(1)	(1)	Nav. Res. Pet. 4	
Noorvik	(2)	Bering Strait	T17N,R11W(Kateel R)	4C/IRA	448	8	456	Kobuk Native Res	

Northeast Cape		Bering Sea	T25S R53W(Kateel R)	Traditional	49	0	49	St. Lawrence Reindeer Res. & NE Cape Mil Station.	
Northway	(1)	Tanana	T14N,R18E(Copper R)	do	181	62	243		
Nulato	(1)	Koyukuk-Lower Yukon	T9S,R4E(Kateel Riv)	4C/Traditional	315	7	322		
Nunapitchuk		Southwest Coastal Lowland.	T9N,R74W(Seward)	IRA	390	8	398		
Ohogamiut		do	T17N,R70W(Seward)		(1)	(1)	(1)		
Old Harbor	(1)	Kodiak	T34S,R25W(Seward)	4C	245	18	263	Kodiak NWR	
Oscarville		Southwest Coastal Lowland.	See Napakiak	Traditional	55	4	59		
Ouzinkie	(1)	Kodiak	T26S,R20W(Seward)	4C/Traditional	175	6	181		Tentatively Appvd.
Paulof Harbor		Aleutian	No protractions; w/d 23,040 acres appertaining to village.		44	1	45		
Pedro Bay		Cook Inlet	T4S,R28W(Seward)	Traditional	64	8	72		
Perryville	(2)	Kodiak	T49S,R64W(Seward)	IRA	84	3	87		
Pilot Point		Bristol Bay	T30S,R51W(Seward)	Traditional	41	8	49		
Pilot Station	(1)	Southwest Coastal Lowland.	T21N,R74W;T22N R74W (Seward).	do	280	3	283		Selected.
Pitkas Point		do	See St. Mary's	do	69	1	70		
Platinum		do	T13S,R75W(Seward)	do	57	4	61		
Point Lay		Arctic Slope	T5N,R45W(Uniat)		4	0	4	Pt. Lay Native Res	Do.
Point Hope	(2)	do	T34N,R35W(Kateel R)	4C/IRA	326	11	337	Pt. Hope Native Res	
Portage Creek (Ohgsenakale)		Bristol Bay	T15S,R51W(Seward)	Traditional	68	1	69		
Port Graham	(1)	Cook Inlet	T9S,R15W(Seward)	do	117	2	119		Tentatively Appvd.
Port Lions		Kodiak	T26,R22W;T27S,R22W (Seward).	4C	225	25	250		Tentatively Appvd. State Townsite surveyed.
Port Heiden	(3)	(Meshik) Aleutian	T38S,R59W(Seward)	Tarditional	58	9	67		Selected.
Quinhagak		Southwest Coastal Lowland.	T5S,R74W(Seward)	IRA	315	5	320		
Rampart	(2)	Upper Yukon-Porcupine	T8N,R13W(Fbx)	Traditional	40	3	43	Rampart Pwr Site	
Red Devil		Upper Kuskokwim	T19N,R44W(Seward)		15	9	15		
Ruby		Koyukuk-Lower Yukon	T9S,R17E(Kateel R.)	Traditional	104	30	134		
Russian Mission (Kuskokwim) ro Chorartalik.		Upper Kuskokwim	T17N,R55W(Seward)	do	118	2	120		
Russian Mission (Yukon)		Southwest Coastal Lowland.	T20N,R66W;T20N,R67W (Seward).	do	137	9	146		
St.George		Aleutian	St. George Island, Pribilofs	do	170	4	174	Pribilof Reserve	
St. Mary's		Southwest Coastal Lowland.	T23N,R76W;T22N R76W (Seward).	2C/IRA	315	5	320		
St. Michael	(3)	Bering Strait	T23S R17W;T23S,R18W (Kateel River).	IRA	197	15	212		
St. Paul	(1)	Aleutian	St. Paul Island, Pribilofs	1C/IRA	410	25	435	Pribilof Reserve	
Sand Point	(1)	do	T56S R73W(Seward)	4C	302	73	375		
Savonoski		Bristol Bay	T17S R46W(Seward)		(1)	(1)	(1)		
Savoonga		Bering Sea	T21S R61W(Kateel R)	IRA	392	5	397	St. Lawrence Reindeer Res	
Saxman[4]	(1)	Southeast	T75S R91E;T76S,R91E (Copper River).	2C/IRA	153	0	153	Tongass Natl Forest	
Scammon Bay	(2)	Southwest Coastal Lowland.	T20N,R89W(Seward)	4C/IRA	183	2	185		
Selawik	(1)	Bering Strait	T14N,R6W(Kateel R.)	4C/IRA	431	6	437		

Name of village	(Survey status)	Region	Whole townships within which all or part of village is contained	Form of present government	Estimated population			Within Federal withdrawal	Status of conflict with State selection
					Native	White	Total		
Shageluk	(1)	Koyukuk-Lower Yukon	T30N,R55W(Seward)	IRA	155	4	159		
Shaktoolik	(1)	Bering Strait	T13S,R13W;T13S,R12W (Kateel River).	IRA	149	2	151	Cape Denbigh Reindeer Station.	
Sheldon's Point		Southwest Coastal Lowland.	T28N,R85W(Seward)	Traditional	142	2	144		
Shishmaref		Bering Strait	T10N,R35W(Kateel R)	IRA	236	4	240		
Shungnak	(1)	do	T17N,R8E(Kateel R)	4C/IRA	160	4	164		
Slana		Copper River	T11N,R8E(Copper R)		(1)	(1)	(1)		
Sleetmute		Upper Kuskokwim	T19N,R44W(Seward)	Traditional	141	3	144		
South Naknek	(1)	Bristol Bay	See Naknek		132	25	157		Selected.
Squaw Harbor		Aleutian	T57S,R75W(Seward)		39	36	75		
Stebbins	(1)	Bering Strait	T23S,R19W(Kateel R)	IRA	211	4	215		
Stevens Village		Upper Yukon-Porcupine	T14N,R7W(Fbx)	IRA	66	2	68	Rampart Pwr Site Wdl	
Stony River	(1)	Upper Kuskokwim	T20N,R40W(Seward)	Traditional	95	16	111		
Tanacross	(1)	Tanana	T19N,R11E;T18N,R11E (Copper River).	IRA	87	6	93		Patented or Tent. Appvd.
Tanana	(1)	Koyukuk-Lower Yukon	T4N,R22W(Fbx)	4C/IRA	254	171	425		
Tatitlek		Gulf of Alaska	T11S,R8W;T12S,R8W(Copper River).	IRA	130	2	132	Chugach Natl. Forest	
Telida		Upper Kuskokwim	T24S,R29E(Kateel R)		(1)	(1)	(1)		
Teller	(1)	Bering Strait	T3S,R38W;T3S,R37W(Kateel R)	4C	214	15	229		
Tetlin		Tanana	T16N,R15E(Copper R)	IRA	82	5	87	Tetlin Native Res	
Togiak	(2)	Bristol Bay	T13S,R67W(Seward)	Traditional	392	8	400		
Toksook Bay	(2)	Southwest Coastal Lowland.	T5N,R89W;T5N,R90W(Seward)	do	243	5	248	C. Rhode NWR	

Tuluksak		do	T12N,R66W(Seward)	IRA	177	3	180		
Tuntutuliak		do	T3N,R77W(Seward)	Traditional	186	2	188		
Tununak		do	T6N,R91W(Seward)	IRA	254	6	260	C. Rhode NWR [1]	
Twin Hills	(3)	Bristol Bay	T12S,R66W(Seward)	Traditional	59	1	60		
Tyonek		Cook Inlet	T11N,R11W(Seward)	IRA	209	20	229	Tyonek or Moquawkie Native Res.	
Ugashik	(3)	Bristol Bay	T31S,R50W(Seward)	Traditional	23	0	23		Selected.
Unalakleet		Bering Strait	T19S,R11W;T18S,R11W(Kateel River).	IRA	498	113	611	Unalakleet Military Sta. & Unalakleet Native Res.	
Unalaska	(1)	Aleutian	No protractions; w/d 23,040 acres appertaining to village.	1C	200	150	350	Military Reserve & GSA	
Unga		do	T58S,R74W(Seward)		(1)	(1)	(1)		
Uyak		Kodiak	T29S,R29W;T29S,R30W (Seward).		(1)	(1)	(1)	Kodiak NWR	
Venetie		Upper Yukon-Porcupine	T25N,R6E(Fbx)	IRA	143	2	145	Chandalar Native Res. & Rampart Pwr Site Wal.	
Wainwright	(2)	Arctic Slope	T15N,R32W(Umiat)	4C/Traditional	284	6	290	N/R. Pet. 4; Wainwright Native Reserve.	
Wales		Bering Strait	T2N,R45W;T3N,R45W (Kateel River).	4C/IRA	119	7	126	Wales Native Reserve	
White Mountain		do	T9S,R24W(Kateel R)	IRA	107	6	113	White Mountain Native Reserve.	
Yakutat	(1)	Southeast	T27S,R33E;T27S,R34E (Copper River).	2C	275	125	400	Tongass Natl. Forest	Selected.

[1] Near or adjacent.
[2] Included in Alana above.
[3] Included with Iliamna.
[4] Falls in Ketchikan Township.

Statement of Eben Hobson, Executive Director, Arctic Slope Native Association

Mr. Chairman and members of the Committee, my name is Eben Hobson of Barrow, Alaska. I am executive director of the Arctic Slope Native Association, a Captain in the Alaska National Guard, and a former state senator.

We have known all along that the North Slope belonged to us. After all, we have lived there for thousands of years. It is good, therefore, that the Federal Field Committee for Development Planning in Alaska in its summary of the proposed solutions stated on page 22 that we Natives of Alaska have a "substantial claim to *all* of Alaska". At long last we have a Federal agency that agrees with us.

Another thing that has heartened us is that our lawyers tell us that the Tlingit and Haida decision of last year held that those Indians still, to this very day, own 2.6 million acres, having lost the lands within the Tongass National Forest. A close study of the Federal Field Committee report indicates that there are still some 275 million acres that have never been taken from us Natives.

We have known all along, Mr. Chairman, and a recent article in Fortune Magazine mentioned that there is one of our grave yards in the Prudhoe Bay area. I know the people whose ancestors are buried there. If I were to speak dramatically, must civilization drill through a grave yard to get the oil?

Mr. Chairman, I am wondering if you folks want to buy our land why we can't get paid full value? That is the usual rule that the white man uses for white people. Why, when society wants Indian lands, society says you can have ten percent for ten years or you can have one-ninth? Is that justice?

We are worried, too, about the effect that all this development is going to have on our culture. We defeated the Russians when they invaded our lands. We have never lost a war. No white man has ever remained long in my country. The truth is that they couldn't survive. Life was too hard on them.

But now, Mr. Chairman, the oil rigs are moving in and our culture is being destroyed by the white man. No longer will there be any Eskimos in the true sense of the word. The independence and self-reliance that we have had for so many generations will be replaced by jobs in the white man's system. Our life is being changed and in a sense destroyed.

I cannot imagine what spending $1 billion in three years for the pipeline means. I fear that there will be a huge invasion of roughnecks who will from time to time desecrate our cities and villages and drunkenness will be everywhere. Mr. Chairman, $1 billion is a lot of money to spend in three years.

Mr. Chairman lately important officials of the State government of Alaska, both legislative and executive, have been fighting over how they are going to sell some of the State-selected lands. I mean by this, State selections after the freeze was imposed. So, the way we figure, the State has no real rights there.

Anyway, there is presently a quarrel up there as to whether this land is going to be sold by competitive or non-competitive bidding. One group composed of leading legislators wanted non-competitive bidding so their lease applications could be honored. Then the State officials wanted competitive bidding so the State could get the bonus payments.

Mr. Chairman, the land over which these two camps were fighting is our land and neither one has a right to it. But most importantly, we were most disappointed at the carelessness of these important people in understanding that this is *our* land. And, that we have real rights there and that we are willing to fight for our lands.

Mr. Chairman, this is our country and I say respectfully that we need protection and we are appealing to you for that protection. Either let us keep our land or pay us for it.

Even though the State officials have irritated us in trying to divide up our lands, we have still maintained our patience. We have brought no lawsuits. We have not inflamed our people. And believe me, Mr. Chairman, it is hard to keep them under control. No, we are here with a determined attitude that we will continue to fight for our lands or for a just solution.

We want you to know also that we are concerned about the spending of whatever we ultimately get for our lands. We know that our homes and our education come first and all of us want to work on these things. Then we want to develop our own lands industrially. Perhaps we will have to invest our money in the lower '48. But we feel that we can direct the philosophy of the general direction of our spending our money. We don't want some Bureau to tell us how to do it. As the things we do not have the skills to handle, we can hire them.

It seems to me that we can sign an oil lease just as providently as the State of Alaska can or some non-competitive bidder.

Finally, Mr. Chairman, we know the power of Congress. We know and have pride in the mores of the American people. We are Americans, too. And so we are, therefore, approaching the showdown here with confidence. We know that the American people and its representatives will treat us justly.

A good description, Mr. Chairman, of our feeling for our land was published in the April 1969, issue of the Seattle Indian Center News in the form of a poem by Clarence Pickernell, a Quinault Indian:

This Is My Land

This is my land
From the time of the first moon
Till the time of the last sun
It was given to my people.
Wha-neh Wha-neh, the great giver
of life
Made me out of the earth of this
land.
He said, "You are the land, and
the land is you."
I take good care of this land,
For I am part of it.
I take good care of the animals,
For they are my brothers and sisters,
I take care of the streams and
rivers,
For they clean my land.
I honor Ocean as my father,
For he gives me food and a means to
travel
Ocean knows everything, for he is
everywhere.
Ocean is wise, for he is old
Listen to Ocean, for he speaks
wisdom
He sees much and knows more.
He says, "Take care of my sister
Earth,
She is young and has little wisdom,
but much kindness."
"When she smiles, it is springtime."
"Scar not her beauty, for she is
beautiful beyond all things."
"Her face looks eternally upward
to the beauty of sky and
stars,
Where once she lived with her father, Sky."
I am forever grateful for this
beautiful and bountiful earth.
God gave it to me
This is my land.

STATEMENT BY ARTHUR J. GOLDBERG, COUNSEL TO THE ALASKA FEDERATION OF NATIVES

Mr. Chairman, Members of the Committee: As the Alaska land issue is of great public importance, and as the rights of Native Groups are involved, I think it would be appropriate for me to inform you of the nature and terms of my representation of The Alaska Federation of Natives.

My colleagues and I are the only attorneys representing the Federation before Congress. As the representatives of the Federation, we believe that we will be able to speak for all Natives. However, the Federation is composed of Regional Groups, and we are not in any way supplanting the attorneys who represent these groups. We are working together with these attorneys and we shall do so in the future in an effort to arrive at a fair proposal, which stands a reasonable chance of enactment, and which meets the needs of all of the various Native Groups.

I believe that all of the attorneys representing Regional Groups and all leaders of those groups agree that it is essential for all Natives to speak through the Federation and for the Federation to speak through one counsel.

My colleagues and I look upon this representation as a form of public service. While we hope to be compensated for our efforts, monetary compensation is a secondary consideration. The paramount concern is that this issue be settled fairly for all concerned, and that the settlement reflect credit upon the United States, the State of Alaska and the Alaska Natives.

We have agreed with the representatives of the Federation on the terms of a contract for our services. The proposed contract has been submitted to the Department of the Interior for its comments and approval. Traditionally, contracts for representation with respect to land claims provide that the attorneys shall receive a percentage of any recovery. On this matter such compensation would be oppressive to the Natives, unconscionable for the attorneys, and contrary to the public interest. No reputable attorney could ask for a percentage of the settlement which we hope to achieve, and we, of course, do not seek any such thing.

Instead, the proposed contract provides that, pending enactment of the legislation, we will be paid a reasonable compensation which takes into consideration both the public service nature of our services and the resources available to the Federation, but which will not in any event exceed our normal hourly rates. In the event legislation is enacted which settles and disposes of the Native claims, our fee will be determined in accordance with the standards set forth in the Canons of Professional Ethics of the American Bar Association.

However (and this is critical), the fee that we are to get will not be determined or even proposed by us. Pending enactment of legislation and after the enactment of legislation, the fee will be set by a disinterested person selected jointly by the Federation and the President of the American Bar Association. If the Federation and the American Bar Association are unable to agree upon the selection of such a person, the fee will be set by a panel of three disinterested persons, one of whom will be selected by the Federation, one by the American Bar Association and one by the American Arbitration Association. As attorneys representing the Natives, we will have no voice in selecting the person or persons who set the fee. And in all events, the fee determined by the impartial person ord panel shall be subject to the approval of the Secretary of the Interior. We can think of no additional safeguards for the Natives, but we would welcome any suggestions which this Committee might have.

The approximately 200 native villages which are associated with the Federation will be asked by the Federation to assent to this contract, if they deem it in their interests to do so, and these villages, as well as the Federation, will be our clients.

Until the Federation formally approves a contract, until the villages assent to the contract, and until the contract is approved by the Department of the Interior, we have no contract. However, the Natives are faced with a very practical and urgent problem. Because of travel and weather conditions in Alaska, it may take as much as four months, or even more, to obtain approval of a substantial number of villages. But legislation is being considered at this very minute. If no attorney speaks for the Federation and all of its members at this time, the Alaska Natives as a group, will not be represented, and their rights, as well as the rights of their descendents, may be gravely prejudiced forever.

Accordingly, we are willing to proceed on the Federation's behalf and at the express request of its Board of Directors, without a formal contract. If a contract for our services is not assented to by the villages or is disapproved by the Department of the Interior, we will receive no fee for our services.

In short, gentlemen, knowing full well that we may receive little or no payment, we wish to represent the Natives, pending consummation of a formal contract, because they have asked us to do so, and because their cause is just.

With the Committee's approval, I would like to insert in the record a copy of a letter from Senator Kuchel's firm and my firm to Secretary Hickel setting forth the details concerning our representation.

PAUL, WEISS, GOLDBERG, RIFKIND, WHARTON & GARRISON,
New York, N.Y., May 26, 1969.

Hon. WALTER J. HICKEL,
Secretary,
Department of the Interior,
Washington, D.C.

MY DEAR MR. SECRETARY: In accordance with the permission granted in your letter of April 29, 1969, I represented the Alaska Federation of Natives ("AFN") at the hearings held before the Committee on Interior and Insular Affairs of the United States Senate on April 29 and on subsequent occasions.

As you know, I withdrew from my representation of AFN on May 13, 1969 for reasons which I stated in a telegram to the President and Executive Vice President of AFN. The AFN subsequently asked me to reconsider my withdrawal and I replied by telegram dated May 19, 1969. Copies of these communications are enclosed.

If I do reconsider my decision to withdraw as AFN counsel, I would want to consider, among other things, the Department of Interior's position on the contract between AFN and me. I understand that Mr. Weinberg discussed with Mr. Melich the proposed contract which we submitted to you on April 26, 1969 and that Mr. Melich suggested that the contract be revised in two respects: Mr. Melich suggested (a) that the contract state that the fee shall be limited in any manner as may be provided by Congress and (b) that the contract specify the maximum hourly rates for attorneys' services.

As I would consider any representation of AFN to be a form of public service in which compensation would be a secondary consideration, I would be glad to adopt each of Mr. Melich's suggestions. Should I resume my representation of AFN, the hourly rate figures would be designed to insure that the total fee on this matter would be substantially less than the fee my associates and I would receive for comparable expenditures of time and effort. The simple resolution of this problem may be for you to set the hourly rate figures; I would be glad to accept any figures which you deem appropriate.

Please let me know if you have any other questions or reservations concerning the proposed contract. As I have stated on several occasions, I would modify any contract with AFN in any way which would provide additional safeguards for the Natives.

I look forward to meeting with you on May 28 and to discussing with you the various problems relating to AFN's request that I represent the Natives on the land issue.

Sincerely yours,

ARTHUR J. GOLDBERG.

WYMAN, BAUTZER, FINELL, ROTHMAN & KUCHEL,
Beverly Hills, Calif., June 2, 1969.

Hon. MITCHEL MELICH,
Solicitor,
Department of the Interior,
Washington, D.C.

DEAR MR. MELICH: At our meeting of May 28, you suggested that we might file a further statement amplifying the view expressed in our letter of April 26 to Secretary Hickel that Mr. Edward Weinberg's participation in the representation of The Alaska Federation of Natives in connection with Congressional consideration of Alaska Native land legislation would not contravene 18 U.S.C. Sec. 207.

A principal issue is whether the consideration by the 91st Congress of bills dealing with the Alaska Native land issue, whether already or hereafter introduced, must be regarded as the same "particular matter" as the matters relative to the Natives of Alaska in which Mr. Weinberg participated while in the Department of the Interior.

A second principal issue is whether there is involved a "specific party or parties" who were also involved before the Department of the Interior during Mr. Weinberg's concern with Alaskan Native land matters while in the Department.

A third is whether post-employment activity in connection with the legislative process, as distinguished from judicial and executive proceedings, is comprehended within 18 U.S.C. Sec. 207.

Inasmuch as Mr. Weinberg's activities in relation to Alaskan Native matters are described in the April 26 letter we do not repeat them here.

At the outset it is necessary to identify with precision the matter as to which Mr. Weinberg's participation is desired. We begin by specifying what it is not. It is not a matter of litigation. Nor is it a matter in which there is sought an administrative or executive branch adjudication which would determine the validity and existence under existing law of claims based on aboriginal or "Indian" title to land, which determination would either vest title in individual Natives or groups of villages, or award compensation therefor, or both. Indeed, as is well known, authority so to do is lacking in the executive branch. Nor, for that matter, does it involve participation in any other administrative proceeding of any kind which was initiated or was pending while Mr. Weinberg was a government official.

The sole forum which has authority to dispose of the question in which Mr. Weinberg's assistance is desired is the Congress of the United States through the legislative process. The sole question for decision by the Congress relates to what kind of legislation, if any, dealing with Alaskan Native land claims should it enact.

It must be emphasized that although some bills have already been introduced, any number of others may subsequently be introduced and, of course, the final form of legislation, if any is enacted, will be determined by the Congress in the course of its legislative deliberations. It should be added that neither legislative proposal advanced by the previous administration, and in which Mr. Weinberg was involved, has been recommended by the Nixon administration nor introduced in the 91st Congress, nor is their introduction likely. We therefore are not dealing with any specific bill which was under consideration in the previous administration nor with any single, specific legislative approach; rather the issue relates to a generic matter—the broad spectrum of legislative possibilities in this general area.

This broad range of possible Congressional inquiry must be contrasted with Mr. Weinberg's specific activities with respect to legislation in this area while an official of the Department of the Interior. That activity, as is apparent from the April 26 letter, was confined to participation in the formulation of guidelines for discussions to be conducted by a representative of the Secretary and to the framing of particular recommendations which the then administration submitted for the consideration of the Congress.

By no means can these two matters be equated as being an involvement in the same "particular matter." The disparity between them is all the more apparent when it is considered that all bills pending before the 90th Congress died with its *sine die* adjournment. Thus, the legislative process had to be initiated anew with the 91st Congress.

It is thus apparent that the statute is not applicable because the generic subject of legislation dealing with Alaskan Native claims cannot be considered a "particular matter" nor, *a fortiori*, the same particular matter with which Mr. Weinberg was concerned while a government employee. Nor does legislation of this character involve a specific party or parties as such.

The so-called Alaskan Native land issues which are the subject matter of the legislative consideration involve not an individual determination or award to The Alaska Federation of Natives, itself an organization which as such has neither claim, title, or right to either land or compensation nor which seeks anything for itself. Rather the Federation seeks to act as a channel of communication with Congress, in a broadly representative capacity, but without any authority to preclude any individual Native, any group, any village, any regional association or anyone else from participating in the legislative consideration. Obviously the Federation itself is not the real party in interest. Indeed, the only real party in interest in the legislative forum is an entire people, an amorphous and as yet not fully identified group which is broadly referred to as "the Natives of Alaska." We say "not yet fully identified" because one of the functions which the legislation must perform is to determine, or to establish criteria for the determination of, who shall be considered a "Native" for purposes thereof.

What this legislation embraces is the resolution on a broad basis of the Alaskan Native land issue. In considerable measure, its direct benefits may go to bodies, such as regional or statewide corporations, not yet in existence and involving stockholders who can at this time be no more precisely identified than to say that they shall be "Alaskan Natives" possessed of some quantum of native blood

or otherwise identifiable by some means as yet unspecified. It is not denied, of course, that individuals and identifiable Native villages or groups may and probably will receive benefits out of the legislation if any be enacted. But basically what is involved is a statewide, general resolution and not a specific representation for purposes of being responsible for the individual contentions of any single Native individual, or any particular band, group, village or regional organization.

The statute, when analyzed, clearly does not comprehend this kind of legislative representation.

First. The four corners of the statute itself (P.L. 87–849, Oct. 23, 1962, 76 Stat. 1119) give no suggestion that the Congress in its legislative function wished to deny participation as an attorney or agent by persons who called as government officials had dealt with the possibility of legislation covering the same general subject matter and affecting or involving, either favorably or adversely, the same categories of persons or organizations.

Second. There is not a word that we have been able to find in the extensively documented background leading up to the Presidents' 1961 recommendation for conflict of interest legislation, nor in the hearings thereon, nor in the Congressional Committee reports, nor in the debates in the Senate or the House that even discusses the possibility that the legislation was intended to be applicable to former government employees in relation to post-employment legislative participation. Nor is that possibility mentioned in the Attorney General's interpretive memorandum (28 CFR Ch. I, App., pp. 133—159, 28 FR 585, Feb. 1, 1963), the only regulation extant.

Third. Common sense dictates that no intent to prohibit legislative representation could be attributed to the Congress.

As is the case with most proposed legislation, the Congress in the situation with which we are here concerned is considering bills directly affecting a large number of people who for purposes thereof comprise a class. Within the executive branch, there was (and still is) again as is almost invariably the case, contact between the government agencies concerned with the subject and various persons or entities who are either identified with the class of people directly to be affected, or who are otherwise interested in the subject, as a part of the process by which the agency and the administration arrive at their recommendations to the Congress. But in the case of legislation of this kind, the persons who consult with the government agencies by no means comprise all the people directly affected; nor, when associations are involved in the discussions, do their officials have an express mandate from all members of the class to act as their agents or representatives. Not all farmers, for example, belong to the farm organizations that are consulted by the Department of Agriculture in the framing of farm legislation. Not all lawyers are members of the American Bar Association. Not all physicians are members of the American Medical Association. Not all motorists belong to the American Automobile Association. Not all persons affected by Social Security legislation are members of the organziations with whom officials of the Treasury and Health, Education, and Welfare Departments may be in contact, or whose views they may consider when framing an administration recommendation to Congress. (In this case, The Alaska Federation of Natives is by no means as cohesively knit as any of the organizations mentioned, being a loosely organized, unincorporated association in the nature of a confederation of regional organizations and individuals, each of whom retains complete autonomy and authority to speak for itself or himself, at any time, and in any manner, on any question.)

The point we wish to make is that the interests of the representatives of the organizations that may be involved in departmental consultations are indistinguishable from those of the members of the class as a whole. These representatives are not the "parties" involved; neither are their organizations. It is the individuals or groups who will be directly affected who are the "parties", if any one may be said, in such a case, to be a "specific party or parties", although we consider that the very terms lack relevance in the context of the legislative process.

The anomoly of the situation can be demonstrated by assuming *arguendo* that the general subject of Alaska Native legislation falls within the category of a "particular matter" or comes within one of the other terms by which the subjects covered by 18 U.S.C. Sec. 207 are described. In that situation, if The Alaska Federation of Natives is held to be a "specific party" within the meaning of 18 U.S.C. Sec. 207, Mr. Weinberg's participation would be barred. However, if Mr. Weinberg were asked to represent an individual Native of Alaska who is not

a member of the Alaska Federation of Natives and who had not been involved in any discussions or contacts with the Department in connection with the same legislative consideration, Mr. Weinberg could act as his attorney because in that case the Native he was representing would not be a "specific party or parties" within the meaning of the statute. Yet, in the two cases the interests of the "parties" would be indistinguishable. This demonstrates that Congress could not have intended to include legislative matters of the nature of those involved here within the ban of 18 U.S.C. Sec. 207.

To conclude otherwise would mean that a former government official would be *forever* barred even from advising a person or entity of the class directly affected by some unenacted legislative proposal he had occasion to consider while in government service in any manner whatsoever in connection with possible legislative consideration of bills covering the same general subject matter. And this result would necessarily follow even though the interests of the person or entity seeking his advice differed in no substantial particular—were not greater or less than—the interests of any other member of the class.

A former Attorney General, for example, could not appear before a Congressional Committee or otherwise act as counsel or agent for the American Bar Association on some proposal regarding a modification of the criminal laws if, while Attorney General, he had had occasion to consider and consult with the American Bar Association on a legislative proposal in the same general area which had been introduced in the Congress but not been enacted during his tenure in office.

Similarly, neither an Attorney General nor any other person who as a government official might have been involved in discussions with representatives of professional societies regarding possible legislation dealing with individual pension plans for self-employed professional people could for the rest of his life appear for or otherwise represent as agent or attorney (with or without compensation) that professional society in connection with legislation covering the same subject except at the risk of up to a $10,000 fine or up to two years in jail, or both.

To put the foregoing cases is at once to demonstrate their absurdity. Yet, they are in principle indistinguishable from Mr. Weinberg's position. He occupied sub-cabinet rank; he participated within the Department of the Interior in arriving at policy decisions on possible legislative approaches to disposition of the Alaskan Native land issue; the general subject directly affects thousands of people and the persons with whom the Department of the Interior had contact on the subject had no more specific or greater interest than do the members of the class—a class which, as earlier herein noted—has yet to be fully defined.

What distinguishes cases of this sort from "a particular matter" which involves "a specific party or parties", or for that matter from a "proceeding" or a "claim" "involving a specific party or parties" (obviously it can by no stretch of the imagination be considered to be a "judicial" matter, a "request for a ruling or other determination" or a "contract", a "controversy", a "change", an "accusation" or an "arrest") is the generality of the subject matter—no one can, of course, foretell whether the Congress will act on the subject at all or, if it does act, what form its action will take—and the absence of particular interests of the person or entity seeking the advice or assistance of counsel differing from the interests of the class as a whole.

We submit that such a situation falls squarely within the sense of the Attorney General's conclusion in his interpretive memorandum above cited that the phrase "particular matter involving a specific party or parties" "does not include general rulemaking, *the formulation of general policy* or standards, *or other similar matters*." (Emphasis supplied.) Obviously the principle he enunciated is applicable here as well as in the specific example the memorandum gives: that of rule-making and subsequent proceedings governed by the rule before the same agency.

Finally, the careful choice of words in 18 U.S.C. Sec. 207 itself negates any inference that Congress intended by implication to prohibit legislative representation.

First. The terms employed in Section 207 are, as was stated in the April 26 letter, those which have traditionally connoted judicial proceedings or executive agency action, not legislation of general application.

In this connection, the fact that subsection (a) of Section 207 does not in terms specify a forum while subsection (b) refers to "department or agency",

does not lead to the conclusion that thereby subsection (a) prohibits legislative representation. The broader compass of subsection (a) is obviously intended to reach forms of activity outside the realm of mere personal appearance rather than to reach also, by simple omission, legislative deliberations.

The Attorney General's analysis, cited *supra*, indicates that the difference in language was intended to cover differences in the kinds of actions prohibited rather than the subject matter being acted upon. Indeed, the example given in the memorandum illustrates the point.

If the failure to refer to the forum in subsection (a) were considered thereby to extend its scope to advice or appearances in connection with legislation, it would present the anomoly that the permanent ban would embrace legislative matters in addition to executive and judicial matters, while the one-year ban would not, even though the latter would, nevertheless, prohibit personal appearances before the courts or the executive branch. This would follow from the fact that the terms "department or agency" in subsection (b) obviously exclude Congress and its committees. Compare, for example, the reference to "department or agency" in Section 207(b) with the references in 18 U.S.C. Sec. 201(d) and (h)—also enacted as a part of Public Law 87–849, to "any committee of either House or both Houses of Congress, or any agency, commission, or officer," etc. See also the reference in 18 U.S.C. Sec. 201(a) to "any department, agency or *branch* of Government". (Emphasis supplied.)

However, there is no reason of policy which suggests that the two subsections of Section 207 were intended to be other than coextensive in the forums to which the subjects described therein relate. Note in this connection that both use identical terms (except for a concluding phrase) to describe the subjects involved—"proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or [has a direct and substantial interest (subs. (a))] [directly and substantially interested (subs. (a))]. Nor is there any reason of policy which suggests that if subsection (a) reaches the legislative process Congress would not have intended also that the temporary ban to personal appearances provided by subsection (b) cover legislative as well as executive and judicial appearances. Yet subsection (b) expressly applies only to executive and judicial branch appearances.

The obvious conclusion to be drawn is that subsection (a) is limited in its application, as is subsection (b), to executive and judicial matters.

One is compelled to assume in the light of the Attorney General's exhaustive interpretive memorandum, that had he considered something as basic as the legislative process was intended to be embraced in Section 207, he would certainly have said so. It is clear from the silence of that memorandum that the Attorney General, like the Congressional Committees and everyone else who participated in the development of what became Public Law 87–849, did not consider that the legislative process was intended to be within the bar of the statute.

Second. The terms of reference employed in other parts of Public Law 87–849 demonstrate that Congress omission of all reference to the legislative process in Section 207 was not an oversight. We have already noted some of these terms and compared them with the reference in Section 207. Others could also be pointed out but they are apparent from a reading of the statute; there is no need to catalogue them here.

For the reasons hereinabove set forth, we reiterate the view in the letter of April 26 that Mr. Weinberg's participation as proposed would not contravene 18 U.S.C. Sec. 207 either in letter or spirit.

We appreciate the opportunity to present this further expression of our position and respectfully request that it, along with the letter of April 26, be transmitted to the Attorney General with Secretary Hickel's request for a ruling.

Sincerely yours,

ARTHUR J. GOLDBERG,
PAUL, WEISS, GOLDBERG, RIFKIND, WHARTON & GARRISON,
THOMAS H. KUCHEL,
WYMAN, BAUTZER, FINELL, ROTHMAN & KUCHEL.

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., June 6, 1969.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: The Department would like to take this opportunity to present its views on the earmarking and tax provisions of S. 1830, "To provide for the settlement of certain land claims of Alaska natives, and for other purposes."

The bill would provide for the granting of federally-owned lands and moneys, including proposed earmarked receipts, in settlement of Alaska natives' claims. Section 6 of the bill would establish an Alaska Native Compensation Fund for the benefit of the natives and native groups of Alaska. Section 12 would earmark to the fund for ten years certain percentages of Federal revenues derived from (1) the disposition of certain minerals located in public lands in Alaska, naval petroleum reserve numbered 4, and the Outer Continental Shelf bordering Alaska; (2) certain royalties on locatable minerals; and (3) the sale or lease of surface resources on public lands in Alaska. It would also earmark to the fund certain revenues accruing to Alaska from public lands. Section 1(a)(5) would declare the intention of Congress with regard to the proposed earmarking. There is no apparent relationship between the receipts proposed to be earmarked and the natives' claims.

The Department has generally opposed the earmarking of Federal receipts for unrelated program purposes. As a general principle of effective budgetary management, budget receipts should not be earmarked for particular purposes but should be available in the general fund of the Treasury for appropriation by the Congress for the achievement of current programs and objectives.

Legislative enactments setting aside certain budgetary receipts for particular expenditure purposes tend to introduce undesirable rigidities into the budget process and thus limit the flexibility of the President and the Congress in determining priorities on the basis of their evaluation of current needs. This could promote unnecessary public spending by frustrating the application of cost-effectiveness tests. Particularly in view of the rapidly changing nature of domestic and national security needs, it is essential that decision-makers have maximum flexibility in the allocation of scarce budgetary resources. Moreover, a law requiring the earmarking of a certain type of receipt could result in substantial and unintended variations in the amounts provided the designated purposes, since these amounts would be determined largely by happenstance of unrelated revenue changes rather than on the basis of program needs and sound budgetary planning. Thus, the earmarking of receipts is generally an inefficient and inequitable means of allocating resources.

Section 7(a) of the bill would establish an Alaska Native Development Corporation which would not be an agency or establishment of the United States Government to be owned by Alaska natives. Sections 7(f) and 7(h), in substance, would make the Corporation tax exempt for a period of 10 years, and would make inapplicable the normal tax rules concerning contributions to the capital of a corporation. These tax provisions would confer benefits to the Corporation which are not enjoyed by any other private corporation and would establish a very unfortunate precedent which might open the way for tax exemption of other private corporations. Since the Corporation would not be an instrumentality of the United States, it is not possible to justify tax exemption under the provisions of section 501(c)(1) of the Internal Revenue Code, which applies only to corporations which are instrumentalities of the United States. The special tax privileges which section 7 would grant to the Corporation would be contrary to the proposed declaration in section 1(b) of the intent of Congress to accomplish the aims of the bill without adding to the categories of property and institutions enjoying special tax privileges. The Department endorses the proposed declaration.

Accordingly, the Department recommends the deletion of these earmarking and tax privlege provisions.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

PAUL W. EGGERS, *General Counsel.*

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