

ALASKA NATIVE LAND CLAIMS

68062900

HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 11213

TO SETTLE THE LAND CLAIMS OF ALASKA NATIVES, AND
FOR OTHER PURPOSES

H.R. 15049

THE ALASKA NATIVE LAND CLAIMS SETTLEMENT ACT OF 1968

H.R. 17129

TO PROVIDE FOR THE SETTLEMENT OF ABORIGINAL LAND
CLAIMS OF ALASKA NATIVES, AND FOR OTHER PURPOSES

HEARING HELD JULY 11, 1968

Serial No. 90-29

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



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1968

98-1810

453801

GOVERNMENT DEPOSITORY
OCT 1 6 1968
PROPERTY OF
COLLEGE OF RUTGERS, THE STATE UNIVERSITY
CAMDEN, N. J. 08102

7. DOC.

4
n/14

- 29

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

WAYNE N. ASPINALL, Colorado, *Chairman*

JAMES A. HALEY, Florida
ED EDMONDSON, Oklahoma
WALTER S. BARING, Nevada
ROY A. TAYLOR, North Carolina
HAROLD T. JOHNSON, California
HUGH L. CAREY, New York
MORRIS K. UDALL, Arizona
PHILLIP BURTON, California
JOHN V. TUNNEY, California
THOMAS S. FOLEY, Washington
RICHARD WHITE, Texas
ROBERT W. KASTENMEIER, Wisconsin
JAMES G. O'HARA, Michigan
WILLIAM F. RYAN, New York
PATSY T. MINK, Hawaii
JAMES KEE, West Virginia
LLOYD MEEDS, Washington
ABRAHAM KAZEN, Jr., Texas
SANTIAGO POLANCO-ABREU,
Resident Commissioner, Puerto Rico

JOHN P. SAYLOR, Pennsylvania
Ranking Minority Member
E. Y. BERRY, South Dakota
CRAIG HOSMER, California
JOE SKUBITZ, Kansas
LAURENCE J. BURTON, Utah
ROGERS C. B. MORTON, Maryland
WENDELL WYATT, Oregon
GEORGE V. HANSEN, Idaho
ED REINECKE, California
THEODORE R. KUPFERMAN, New York
JOHN KYL, Iowa
SAM STEIGER, Arizona
HOWARD W. POLLOCK, Alaska
JAMES A. MCCLURE, Idaho

SIDNEY L. MCFARLAND, *Professional Staff Director*
T. RICHARD WITMER, *Counsel*

SUBCOMMITTEE ON INDIAN AFFAIRS

JAMES A. HALEY, Florida, *Chairman*

ED EDMONDSON, Oklahoma
ROY A. TAYLOR, North Carolina
JOHN V. TUNNEY, California
ROBERT W. KASTENMEIER, Wisconsin
PATSY T. MINK, Hawaii
LLOYD MEEDS, Washington

E. Y. BERRY, South Dakota
GEORGE V. HANSEN, Idaho
SAM STEIGER, Arizona
HOWARD W. POLLOCK, Alaska
JAMES A. MCCLURE, Idaho

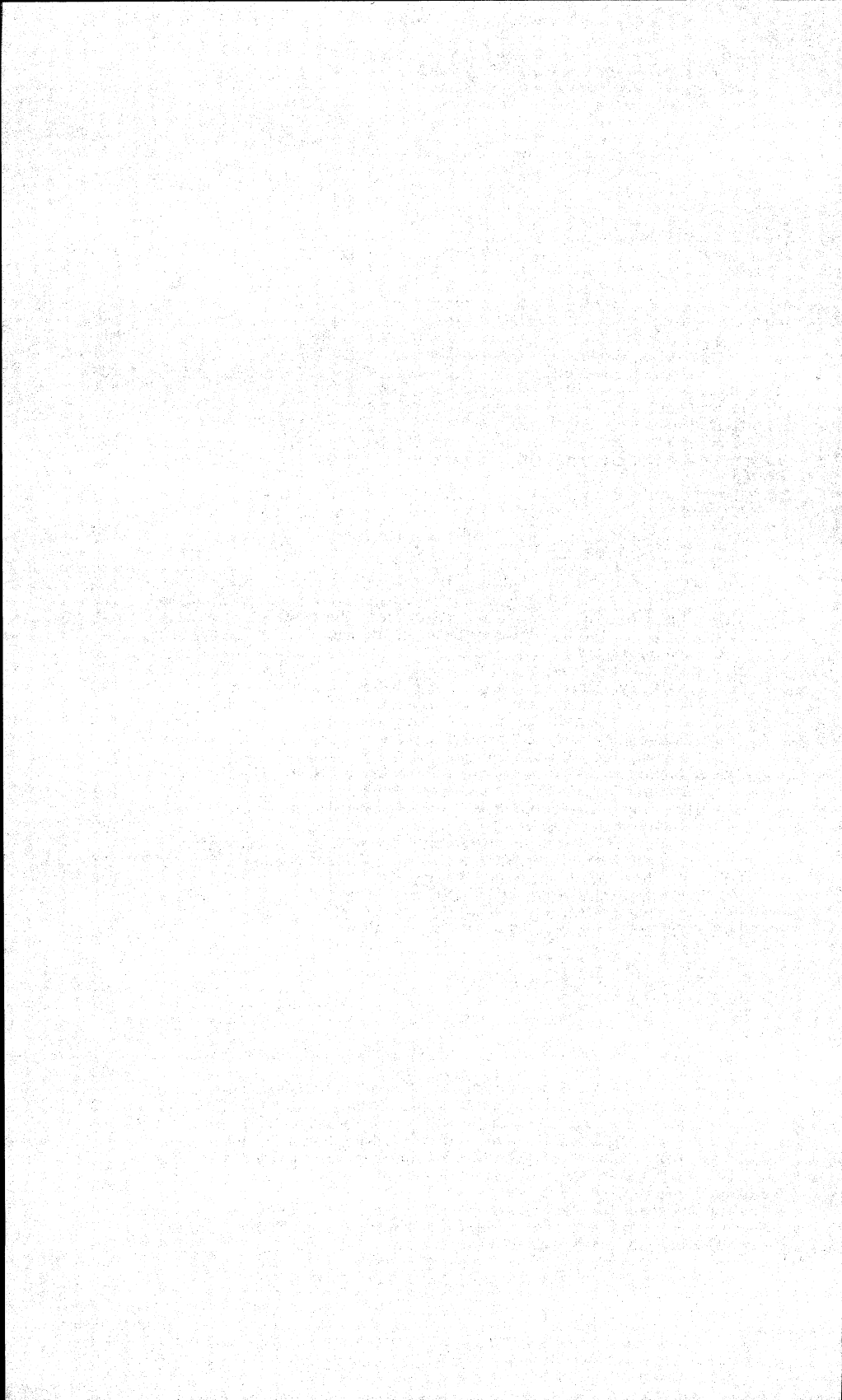
LEWIS A. SIGLER, *Consultant on Indian Affairs*

Note: The chairman, Hon. Wayne N. Aspinall, and the ranking minority member, Hon. John P. Saylor, are ex officio members of each subcommittee.

(II)

CONTENTS

Hearing held—	Page
July 11, 1968:	
Morning session.....	1
Afternoon session.....	128
Text of:	
H.R. 11213.....	2
H.R. 15049.....	15
H.R. 17129.....	56
Report of the Department of the Interior.....	72
Statements:	
Bergt, Laura, member, Native Land Claims Task Force.....	198
Borbridge, John, Jr., president, Central Council of Tlingit and Haida Indians of Alaska.....	123
Connor, Roger G., attorney for the Aleut Tribe, Aleut Community, St. Paul Island (joint statement with Flore Lekanof).....	174
Edwardsen, Charles, Jr., Eskimo, Barrow, Alaska (plus tables).....	188
Groh, Cliff, attorney, representing the Alaska Federation of Natives.....	128
Gruening, Hon. Ernest, a U.S. Senator from the State of Alaska.....	91
Hensley, Hon. Willie, a Representative in the Alaska Legislature, Kotzebue, Alaska.....	116
Hickel, Hon. Walter J., Governor of the State of Alaska.....	92
Jackson, Barry, Alaska Federation of Natives (plus attachments).....	130
Amendments proposed by the Alaska Federation of Natives to Secretary Udall's proposal of April 30, 1968.....	135
Attachment A—Commentary to Federal Alaska Native Claims Act of 1968, draft of January 24, 1968.....	146
Attachment B—Task force commentary on State Alaska Native Claims Act, draft of January 24, 1968.....	151
Attachment C—Table of contents, proposed State bill, Alaska Native Commission.....	152
Attachment D—CS for House Bill No. 672, in the legislature of the State of Alaska, fifth legislature, second session.....	157
Lekanof, Flore, president, Aleut League.....	174
Notti, Emil, president, Alaska Federation of Natives.....	107
Paul, Frederick, attorney for the Arctic Slope Native Association.....	205
Paul, William, attorney at law, Spokane, Wash.....	200
Pollock, Hon. Howard W., a Representative in Congress from the State of Alaska.....	86
Supplemental statement.....	89
Western Oil & Gas Association.....	202
Wright, Donald R., first vice president, Alaska Federation of Natives.....	113
Letters:	
Paul, Frederick, Seattle, Wash., to University of Alaska, attention Mr. Victor Fischer, dated April 13, 1967.....	206
Rogers, Frank W., Washington representative, Western Oil & Gas Association, to Hon. Wayne N. Aspinall, dated July 11, 1968.....	202
Udall, Hon. Stewart L., Secretary of the Interior, to Hon. John W. McCormack, dated June 15, 1967 (executive communication).....	81
Udall, Hon. Stewart L., Secretary of the Interior, to Hon. Wayne N. Aspinall, dated April 30, 1968 (report).....	72
Additional information:	
Proposal for settlement of the Alaska native land claims in a report of the Governor's Task Force on Native Land Claims, Juneau, Alaska, January 10-16, 1968.....	119



ALASKA NATIVE LAND CLAIMS

THURSDAY, JULY 11, 1968

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
SUBCOMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call, in room 1324, Longworth House Office Building, Hon. James A. Haley (chairman of the subcommittee) presiding.

Mr. HALEY. The subcommittee will be in order for the consideration of H.R. 11213 by Mr. Aspinall, to settle the land claims of Alaska natives, and for other purposes; H.R. 15049 by Mr. Pollock, the Alaska Native Land Claims Settlement Act of 1968; and H.R. 17129 by Mr. Aspinall, to provide for the settlement of aboriginal land claims of Alaska natives, and for other purposes.

H.R. 17129 is substitute legislation recommended by the Department of the Interior in its report dated April 30, 1968.

Without objection, H.R. 11213, H.R. 15049, H.R. 17129, Department of the Interior report dated April 30, 1968, and an executive communication dated June 15, 1967, will be included in the record at this point.

(The five documents referred to follow:)

(1)

90TH CONGRESS
1ST SESSION

H. R. 11213

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1967

Mr. ASPINALL (for himself and Mr. HALEY) (by request) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To settle the 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 section 3 of the Act of May 25, 1926 (44 Stat. 629;
4 48 U.S.C. 355 (c)), is amended to read as follows:

5 “SEC. 3. (a) The Secretary of the Interior is author-
6 ized to grant in trust, subject to valid existing rights, to each
7 tribe, band, clan, village, community, or group of Natives in
8 Alaska, hereinafter referred to as a group of Natives, upon
9 his own initiative and without application, title to the village
10 site or sites now occupied by such group of Natives if not

1 otherwise patented and if not withdrawn for purposes unre-
2 lated to Native use or the administration of Native affairs.
3 The Secretary is further authorized, subject to valid existing
4 rights, to grant title to such additional lands within the
5 environs of such site or sites as would contribute significantly,
6 in the judgment of the Secretary, to the livelihood of the
7 community, taking into account such factors as population,
8 economic resources of the group, traditional way of life, and
9 the nature and value of the land proposed to be granted.
10 Such grant may include a grant of title, subject to valid
11 existing rights, to noncontiguous lands being used and oc-
12 cupied by such Natives for burial grounds, airfields, water
13 supply, hunting and fishing camps, and dock or boat-launch-
14 ing sites that are not withdrawn for other purposes: *Pro-*
15 *vided*, That the provisions of this sentence and the provisions
16 of subsection (b) of this section shall not apply to groups
17 of Natives who are beneficiaries of the judgment recovered
18 by the Tlingit and Haida Indians in Court of Claims docket
19 numbered 47,900. The Secretary is authorized to make any
20 grant subject to easements for public use or benefit. In no
21 case may the grants of land to a single grantee under this
22 section exceed fifty thousand acres.

23 “(b) In the case of Native villages within whose en-
24 virones there are not sufficient additional lands in Federal
25 ownership to permit the Secretary to make the grant of

1 additional lands contemplated by subsection (a), the Secre-
2 tary may convey other lands in lieu thereof but subject to the
3 same conditions and limitations that apply to conveyances
4 of land within the environs of a village.

5 “(c) For the purposes of this Act the term ‘Native’
6 means an Alaskan Indian, Eskimo, or Aleut of at least one-
7 fourth degree Indian, Eskimo, or Aleut blood.

8 “(d) Beneficiaries of the grants made pursuant to sub-
9 section (a) shall be the Natives who comprised the members
10 of the grantee upon the date of the grant, as determined by
11 the Secretary of the Interior, together with any descendants
12 of such members of one-fourth degree of Native blood. The
13 interest of a beneficiary shall not be transferable in any
14 manner, either during his lifetime or upon his death. When-
15 ever a distribution of capital or income of the trust is made
16 to the beneficiaries, the finding of the Secretary as to the
17 qualified recipients shall be final and conclusive.

18 “(e) Title to land granted pursuant to subsection (a)
19 may be held by the United States in trust, acting through
20 the Secretary of the Interior as trustee, or it may be con-
21 veyed by the Secretary of the Interior to a trustee selected
22 by a group of Natives by a majority vote of the members
23 nineteen years of age and older who reside in or near the
24 village. Any trustee selected by the Natives shall be subject
25 to approval by the Secretary. In the event a group of Na-

1 tives does not select a trustee approved by the Secretary
2 within one year from the date the Secretary notifies said
3 group of his readiness to convey title, the Secretary may
4 convey title to the State of Alaska, with its consent, as
5 trustee, or to any other trustee selected by the Secretary.
6 The term of a trust established pursuant to this section shall
7 not exceed twenty-five years, and when the trust expires it
8 shall be liquidated in accordance with the terms of the trust
9 instrument, or as prescribed by the Secretary of the Interior
10 if there is no trust instrument. Prior to conveyance of a
11 site to a trustee the Secretary shall have its exterior bound-
12 aries surveyed. This requirement for survey shall be satisfied
13 without continuous marking of the line, but by establishment
14 of monuments along all the boundaries, except meander
15 courses, by electronic measurement or other means, at inter-
16 vals of not more than six thousand feet, or by extension of
17 the rectangular system of surveys over the areas claimed.
18 Claims or selections of surveyed lands shall be in accordance
19 with the plats of survey and those for unsurveyed lands
20 shall, following survey, be so conformed. Land granted pur-
21 suant to subsection (a) shall be subject to the applicable
22 laws of the State of Alaska, except that during the period
23 of the trusteeship such land shall not be subject to State or
24 local taxes upon real estate.

25 “(f) A trustee who receives a conveyance under this

1 section shall be subject to the laws of the State of Alaska
2 governing the execution of trusts, and shall have the powers
3 and duties set forth in the deed of trust, including without
4 limitation subdivision, management, and disposal of the lands,
5 investment and reinvestment of the proceeds, and distribu-
6 tion of income or capital of the trust to the members of the
7 beneficiary. In the disposal of any tract of land the trustee
8 shall give a right of first refusal to the occupant thereof. The
9 title to land conveyed by a trustee to a Native shall be subject
10 to the provisions of section 1 of this Act with respect to lands
11 conveyed to Indians or Eskimos in townsites established un-
12 der section 11 of the Act of March 3, 1891 (26 Stat. 1099;
13 48 U.S.C. 355), as supplemented by the Act of February
14 26, 1948 (62 Stat. 35; 48 U.S.C. 355 (e)).

15 “(g) So long as the lands are held by the United States
16 in trust, the Secretary of the Interior shall have all the powers
17 to administer the trust which he could confer upon another
18 trustee, but he shall not be subject to the laws of Alaska
19 governing the execution of trusts.

20 “(h) The Secretary of the Interior or a trustee who
21 receives a conveyance under this section may convey with-
22 out compensation to private religious, charitable, or educa-
23 tional institutions or organizations the land occupied by build-
24 ings or facilities owned by them on the date the trust is

1 established, where such buildings or facilities are situated
2 within the boundaries of the land to be granted pursuant to
3 subsection (a).

4 “(i) In order to assist him in the administration of
5 this section, the Secretary of the Interior may appoint a
6 commission of not to exceed five members, one of whom
7 shall be appointed from nominations submitted by the
8 Governor of Alaska, and one of whom shall be appointed
9 from nominations submitted by Alaska Natives in accordance
10 with procedures prescribed by the Secretary. The Secretary
11 shall prescribe the duties and powers of the commission, the
12 compensation to be paid to its members, provide for pay-
13 ment of commission expenses, including employment of
14 necessary personnel, and provide such other assistance,
15 within existing authorizations, as he deems desirable. The
16 commission’s duties may include the preparation of a roster
17 of groups of Natives eligible to receive grants under section
18 1 (a) hereof, rolls of Natives eligible to receive distributions
19 of trust property under section 1 (d) hereof, rolls of Natives
20 eligible to be granted a townsite lot under section 1 (f)
21 hereof, and rolls of Natives eligible to vote in any election
22 held pursuant to this Act. Before any such roster or roll is
23 finally approved by the Secretary, it shall be published
24 in such manner as he shall find to be practicable and effec-
25 tive, and opportunity shall be given to lodge protests thereto.

1 “(j) There are authorized to be appropriated not more
2 than \$12,000,000, to be available until expended, to defray
3 costs of the planning, subdivision, survey, management,
4 and disposal of lands under the provisions of this section,
5 either directly by the Secretary of the Interior or through
6 contract with the appropriate trustee, and to pay the ex-
7 penses of the commission established under subsection (i).

8 “(k) At the beginning of each session of Congress the
9 Secretary of the Interior shall report to the chairmen of
10 the House and Senate Committees on Interior and Insular
11 Affairs the grants made under this section and an estimate
12 of the time needed to complete the grants. The reports may
13 be discontinued when the grants are substantially completed.”

14 INTERIM ADMINISTRATION UNDER PUBLIC LAND LAWS

15 SEC. 2. (a) The Secretary of the Interior may, subject
16 to valid existing rights, withdraw from all forms of appro-
17 priation under any of the public land laws, including without
18 limitation selection by the State of Alaska under the State-
19 hood Act of July 7, 1958 (72 Stat. 339), any lands that
20 are subject to conveyance to a group of Natives pursuant
21 to section 3 of the Act of May 25, 1926 (44 Stat. 629;
22 48 U.S.C. 355 (c)), as amended by section 1 of this Act.
23 A State selection of lands that are withdrawn shall not be
24 approved, regardless of whether the selection was initiated
25 before or after the withdrawal.

1 (b) A Native claim based on use and occupancy of
2 unwithdrawn land shall not be the basis for the rejection of
3 State selections or other applications or claims under the
4 public land laws.

5 (c) Either before withdrawing lands under this section
6 or before granting a patent pursuant to section 3 of the Act
7 of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355 (c)), as
8 amended by section 1 of this Act, the Secretary of the Inte-
9 rior shall consult the Secretary of Defense with respect to the
10 effect of the withdrawal or grant on the security of the
11 United States.

12 RESERVATIONS AND RESERVES

13 SEC. 3. (a) The areas of lands and waters heretofore
14 reserved and set aside for the use of the Native inhabitants
15 of Akutan, Diomedes, Karluk, Unalakleet, Venetie, and
16 Wales shall be held in trust by the United States for the
17 benefit of the Native inhabitants thereof for twenty-five
18 years after the date of this Act, at which time the trust shall
19 be liquidated in the manner provided for the liquidation of
20 trusts under section 3 of the Act of May 25, 1926 (44 Stat.
21 629; 48 U.S.C. 355 (c)), as amended by section 1 of this
22 Act. During the term of the trust the Secretary of the Inte-
23 rior shall have all of the powers granted to a trustee under
24 section 3 of said 1926 Act, as amended. To the extent such
25 areas are smaller than the areas that could be conveyed to

1 them under the terms of section 3 of said 1926 Act, as
2 amended, and lands in that immediate vicinity are available
3 for grants under such Act, additional lands may be granted
4 by the Secretary of the Interior under that section, but only
5 if warranted by the economic needs of the Native inhabit-
6 ants. Criteria applicable to these situations shall be devel-
7 oped by the commission authorized by section 3 (i) of said
8 1926 Act, as amended, and shall be made available to the
9 Secretary as advisory recommendations.

10 (b) Lands held in trust pursuant to this section shall
11 be subject to the applicable laws of the State of Alaska,
12 except that during the period of trusteeship such land shall
13 not be subject to State or local taxes on real estate.

14 (c) The various reserves set aside by Executive order
15 or secretarial order for Native use or for administration of
16 Native affairs, including those created under authority of the
17 Act of May 31, 1938 (52 Stat. 593), shall be revoked pro-
18 tanto by the grant of title pursuant to section 3 of the Act
19 of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355 (c)), as
20 amended by section 1 of this Act.

21 (d) The trusts created by this section shall be subject
22 to the right of the Secretary of the Interior to issue and
23 enforce such regulations as he deems desirable for the pro-
24 tection of migratory birds that are protected by treaty to
25 which the United States is a party.

1 (e) The Secretary of the Interior may, with the con-
2 currence of the agency administering the land, issue to
3 Natives exclusive or nonexclusive permits, for twenty-five
4 years or less, to use for hunting, fishing, and trapping pur-
5 poses any lands in Alaska that are owned by the United
6 States without thereby acquiring any privileges other than
7 those stated in the permits. Such permits may contain condi-
8 tions deemed desirable by the Secretary, and shall be sub-
9 ject to applicable State game and fish laws. Any patents or
10 leases hereafter issued in such areas pursuant to the Alaska
11 Statehood Act, or the public land, mining, and mineral leas-
12 ing laws, may contain a reservation to the United States
13 of the right to issue such permits and to renew them for an
14 additional term of not to exceed twenty-five years in the
15 discretion of the Secretary.

16 JURISDICTION OF THE UNITED STATES COURT OF CLAIMS

17 SEC. 4. (a) The United States Court of Claims shall
18 have jurisdiction to hear and adjudicate a single claim filed
19 within six years from the date of this Act by the attorney
20 general of the State of Alaska on behalf of all Natives of
21 Alaska based on the taking by the United States of any
22 lands to which any group of such Natives claims aboriginal
23 title by reason of use of occupancy, other than lands subject
24 to grant under section 3 of the Act of May 25, 1926 (44
25 Stat. 629; 48 U.S.C. 355 (c)), as amended by section 1 of

1 this Act. If the court determines that as of March 30, 1867,
2 any group of Natives had aboriginal title through use or
3 occupancy of any such lands, the aboriginal title shall be
4 regarded as taken as of that date, and the court shall enter
5 judgment for a sum equal to the market value of such lands
6 upon that date without interest, and less offsets, counter-
7 claims, and demands that would be allowable under section 2
8 of the Indian Claims Commission Act of August 13, 1946
9 (60 Stat. 1050; 25 U.S.C. 70 (a)). The judgment shall be
10 in favor of the Natives of Alaska without regard to group
11 affiliations. A claim of aboriginal title to a particular area
12 shall not be defeated because the land may have been oc-
13 cupied or used by more than one identifiable group of Natives
14 of Alaska, but the claimants must show that there were living
15 upon the date of this Act Natives of Alaska who are descend-
16 ants of the identifiable group through whom aboriginal title
17 to any area is sought to be established. The provisions of
18 this section shall not apply to any lands in southeastern
19 Alaska for which a money judgment has been or may here-
20 after be awarded by the Court of Claims in the case of
21 The Tlingit and Haida Indians against The United States,
22 numbered 47900; or to any lands that are set aside and
23 administered for the benefit of Natives; or to any lands that
24 are subject to an aboriginal title claim adjudicated by the

1 Indian Claims Commission, or pending before the Indian
2 Claims Commission six months after the date of this Act.
3 Prior to the expiration of such six months the plaintiffs may
4 cause their claim to be dismissed by the Indian Claims
5 Commission and the lands involved may then be included
6 in the claim filed pursuant to this section.

7 (b) As used in this section, the term "Natives of
8 Alaska" means all Alaskan Indians, Eskimos, or Aleuts of
9 at least one-fourth degree Indian, Eskimo, or Aleut blood
10 living upon the date of this Act, but the distribution of any
11 judgment or award under this section shall be limited to
12 Natives of Alaska living upon the date the Congress appro-
13 priates funds to pay any judgment that may be entered
14 against the United States. It shall not include Natives who
15 have shared or will share in any award in the Tlingit claim
16 or other claims adjudicated by the Indian Claims Commis-
17 sion, or the Metlakatla Indians of the Annette Island
18 Reservation.

19 (c) The court shall award to the State of Alaska the
20 reasonable costs and expenses, including counsel fees, incurred
21 in the preparation of claims authorized to be filed by this
22 section.

23 SEC. 5. Nothing in this Act shall affect the right of
24 Natives as citizens to acquire public lands of the United
25 States under the Native Allotment Act of May 17, 1906

1 (34 Stat. 197), as amended (48 U.S.C. 357), or the pro-
2 visions of other applicable statutes.

3 SEC. 6. The enactment of this legislation shall be in full
4 and complete satisfaction of all claims of tribes, bands, clans,
5 villages, communities, and groups of Natives against the
6 United States based upon alleged aboriginal right, title, use,
7 or occupancy, excepting only claims now pending in the
8 Indian Claims Commission or the Court of Claims by pre-
9 vious authorization of the Congress.

10 SEC. 7. Lands granted pursuant to section 3 of the Act
11 of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355 (c)), as
12 amended by section 1 of this Act, shall, so long as they
13 remain not subject to State or local taxes on real estate,
14 continue to be regarded as public lands for the purpose of
15 computing the Federal share of any highway project pur-
16 suant to title 23 of the United States Code, as amended and
17 supplemented.

90TH CONGRESS
2D SESSION

H. R. 15049

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 1, 1968

Mr. POLLOCK introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

The Alaska Native Land Claims Settlement Act of 1968.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **§ 100. Purposes**

4 It is hereby declared to be the policy of the United
5 States to recognize, validate, and confirm the claims of
6 Alaska natives based upon aboriginal occupancy and use
7 of lands within the State of Alaska and to provide fair,
8 speedy, and equitable methods for their determination,
9 settlement, and satisfaction. To accomplish this objective
10 it is desirable to minimize procedural delays and to remove
11 technical obstacles; to create a public body composed of

1 residents of Alaska with the power to process, manage, and
2 expedite the determination of such claims and to perform
3 other functions to carry out provisions of this Act; to pro-
4 vide for the grant and selection of lands needed by native
5 Alaskan communities for their development and support;
6 to make available to all Alaska natives a share in the reve-
7 nues derived from the Outer Continental Shelf adjacent to
8 Alaska as compensation for the claims of Alaska natives
9 based on aboriginal use and occupancy of the lands of
10 Alaska; to grant protection to certain existing surface uses
11 of land by Alaskan natives; and to settle with finality all
12 such land claims of Alaska natives.

13 TITLE I—ALASKA NATIVE COMMISSION

14 § 101. Creation of Commission

15 There is created and established an Alaska Native Com-
16 mission (hereinafter called "the Commission") to exercise
17 the duties and powers hereby conferred upon it. The Com-
18 mission is an independent agency of the United States, but
19 it may also exercise all powers conferred upon it by the State
20 of Alaska which are consistent with this Act, and with the
21 appropriations made for the functioning of the Commission.
22 The Commission shall consist of seven members. The mem-
23 bers shall be appointed by the President of the United States
24 with the advice and consent of the Senate. At least four of the
25 members shall be Alaska natives, as hereafter defined. Not

1 more than five members shall be members of the same politi-
2 cal party. Each member of the Commission shall have been
3 a resident of Alaska continuously for at least five years be-
4 fore his appointment, and must remain such a resident during
5 his term of office. In appointing members of the Commission
6 due regard shall be given to obtaining fair geographic and
7 ethnic representation.

8 **§ 102. Terms of office**

9 The members initially appointed by the President shall
10 be given individual terms of office, of one, two, three, four,
11 five, six, and seven years, respectively, from the date of this
12 Act. Their successors shall be appointed for terms of seven
13 years, in the same manner and subject to the same qualifica-
14 tions as the initial appointments, except that any person
15 chosen to fill a vacancy shall be appointed only for the un-
16 expired term of the member whom he succeeds. Upon the
17 expiration of his term of office a member shall continue to
18 serve until his successor has been appointed and has qualified
19 to take office. The President shall choose a Chairman from
20 the Commission's membership. The Commission may elect
21 by a majority vote of its membership other officers, such as a
22 Vice Chairman, as it may find necessary to perform its func-
23 tions. Any commissioner may be removed by the President
24 for inefficiency, neglect of duty, malfeasance in office, or en-

1 gaging in conduct contrary to the conflict of interest laws of
2 the United States.

3 **§ 103. Compensation**

4 Initially the commissioners shall be paid an annual salary
5 of \$25,000 per annum. Thereafter, whenever the President
6 determines that the service of commissioners will no longer
7 be required on a full-time basis, he may reduce their compen-
8 sation to a daily or hourly amount not less than \$75 per
9 day, or \$10 per hour. The commissioners shall be reim-
10 bursed for such expenses as have been duly authorized by
11 the Commission to be incurred in the performance of their
12 duties.

13 **§ 104. Nominations**

14 The Governor of Alaska, any organization recognized
15 by the Secretary of the Interior to speak for the Alaska
16 natives on a statewide basis, and the statewide native cor-
17 poration shall each be given the opportunity to recommend
18 prospective appointees to the Commission and the President
19 shall give careful consideration to such recommendations,
20 but he is not limited thereby in the exercise of appointive
21 power.

22 **§ 105. Location**

23 The Commission shall have its offices and hold its meet-
24 ings within the State of Alaska.

1 § 106. Employees and expenses

2 The Commission may employ and fix the compensation
3 of an Executive Director and of such attorneys, special ex-
4 perts, examiners, clerks, and other employees, and may incur
5 such expenses and disburse such funds as it may find neces-
6 sary for the proper performance of its duties and as may be
7 appropriated from time to time by Congress. The General
8 Accounting Office shall receive and examine all accounts of
9 expenditures by the Commission.

10 § 107. Procedure

11 The Commission shall have power to establish its own
12 rules of procedure, and the time and place of its meetings. A
13 quorum shall consist of four members.

14 § 108. Jurisdiction and powers

15 The Commission shall have jurisdiction to determine and
16 settle Alaska native land claims in conformity with this Act,
17 and shall exercise the functions and powers set forth in this
18 Act.

19 When necessary for the administration of this Act, the
20 Commission shall determine the aboriginal use and occupancy
21 of Alaska lands by native groups, the geographical extent
22 thereof, the boundaries of occupancy attaching to villages
23 and regions, and make such other determinations in respect
24 to Alaska native land claims as is fair and equitable in carry-

1 ing out the purposes of this Act. It may determine the num-
2 ber and location of the groups to be recognized officially by
3 the Commission, and it may prepare an official roster of the
4 groups of natives eligible to receive the benefits granted by
5 this Act and by the laws of Alaska. The Secretary of the
6 Interior (hereinafter called the "Secretary") may delegate
7 to the Commission any powers and duties entrusted to him
8 under this Act, including preparation of the official rolls and
9 the determination of what persons are entitled to be enrolled.

10 The Commission may investigate all matters which are
11 the proper subject of its action. It shall have the power to
12 call upon any of the departments of the Federal Government
13 for any information it deems necessary to perform its duties
14 and functions.

15 The Commission shall give reasonable notice to the
16 interested parties before it and an opportunity to be heard
17 before making a final determination on any disputed matter.

18 **§ 109. Testimony of witnesses**

19 Any member of the Commission or employee of the
20 Commission, designated in writing by the Chairman for
21 such purpose, may administer oaths and examine witnesses.
22 The Chairman of the Commission, or in his absence, the Vice
23 Chairman, may issue subpoenas requiring (1) the attendance
24 and testimony of witnesses, and the production of all neces-
25 sary books, papers, documents, correspondence, and any

1 other evidence, from any place in the United States or
2 Alaska at any designated place of hearing; or (2) the taking
3 of depositions before any designated individual competent to
4 administer oaths under the laws of the United States or of
5 any State. In the case of a deposition the testimony shall be
6 reduced to writing by the individual taking the deposition or
7 under his direction and shall be subscribed to by the depo-
8 nent. In taking testimony, reasonable opportunity shall be
9 given for attendance and examination of the witness by any
10 party who might be adversely affected by the Commission's
11 action to which the testimony of the witness pertains. Wit-
12 nesses subpoenaed to testify or whose depositions are taken
13 pursuant to this Act, and the officers or persons taking the
14 same, shall severally be entitled to the same fees and mileage
15 as are paid for like services in courts of the United States.

16 **§ 110. Final determinations of the Commission**

17 The final determinations of the Commission in any mat-
18 ter which is disputed before it, and in any matter which will
19 be irrevocably binding upon the persons affected thereby,
20 shall be in writing, filed with the Commission, and shall set
21 forth the operative facts upon which its determination is
22 based, the reasons in support of its determination, and a
23 definite statement of the determination that is made by the
24 Commission.

1 **§ 111. Judicial review**

2 Parties to proceedings before the Commission may obtain
3 review of actions and final determinations of the Commission
4 by filing an appeal, within thirty days from receiving notice
5 of such action or determination, in the United States District
6 Court for the District of Alaska. In considering any such
7 appeal the court shall be limited to considering and deciding
8 only the following questions:

9 (a) Whether any specific provision of this Act, of
10 the Constitution of the United States, or of the consti-
11 tution of Alaska has been violated.

12 (b) Whether the Commission acted capriciously or
13 arbitrarily.

14 (c) Whether there is information, published or
15 written material, evidence, or other data within the
16 record to sustain the actions or determinations of the
17 Commission as being reasonable.

18 The court may remand the matter reviewed for such
19 further proceedings as it may direct, consistent with the
20 provisions of this Act, and may grant other appropriate
21 judicial relief.

22 **§ 112. Attorneys for native groups**

23 Attorneys retained by native groups, regional corpora-
24 tions, and the statewide corporation, requiring legal repre-
25 sentation before the Commission or other legal services shall

1 comply with the requirements of sections 81, 82, 83, 84,
2 and 476 of title 25, United States Code, concerning their
3 contracts of employment before being permitted to appear
4 for any group. Admission to the bar of the United States
5 District Court for the District of Alaska shall be required
6 for practice before the Commission.

7 **§ 113. Official documents**

8 In any proceeding before the Commission and in any
9 suit arising out of or under this Act, any letter, paper, docu-
10 ment, map, or record in the possession of any officer or
11 department or agency of the United States (or certified copies
12 thereof) may be used in evidence and any department or
13 agency of the United States shall give full and free access to
14 the attorney or attorneys for the native groups, regional
15 corporations, and the statewide corporation to such letters,
16 papers, documents, maps, or records as may be useful to said
17 attorney or attorneys in preparation of such proceeding or
18 suit.

19 **TITLE II—NATIVE TOWNSHIP GRANTS**

20 **§ 201. Grant**

21 Each group of natives in Alaska is hereby granted and
22 shall be entitled to select, after the effective date of this Act,
23 and within twenty-five years after the completion and cer-
24 tification of the final roll of such native group, lands in total

1 acres not exceeding the product of the number of persons
2 on the final roll of the native group multiplied by the land
3 selection factor from the public lands of the United States
4 which are vacant, unappropriated, and unreserved at the
5 time of their selection: *Provided*, That nothing herein con-
6 tained shall prevent the selection of lands occupied by or
7 claimed by or owned by such group or by the United States
8 in trust for such group: *And provided further*, That nothing
9 herein contained shall affect any valid existing claim, loca-
10 tion, or entry under the laws of the United States, whether
11 for homestead, mineral, right-of-way, or other purpose what-
12 soever, or shall affect the rights of any such owner, claimant,
13 locator, or entryman to the full use and enjoyment of the
14 lands so occupied: *And provided further*, That the total
15 acreage granted to all native groups shall not exceed forty
16 million acres.

17 The land selection factor shall be determined by dividing
18 forty million by the number of persons on the final rolls of
19 all native groups entitled to grants of land under this section.

20 **§ 202. Preferred right of selection**

21 Upon completion and certification of a temporary roll
22 of such native group, the native group shall have a preferred
23 right of selection for a period of six months to lands open
24 to selection within the area claimed by such native group by
25 Indian title and withdrawn under section 203, subject to the

1 requirements of this Act, except as against prior existing valid
2 rights or as against equitable claims subject to allowance and
3 confirmation by the Commission. Such preferred right of
4 selection shall have precedence over the selections hereto-
5 fore or hereafter made by the State of Alaska under section
6 6 of the Act of July 7, 1958 (72 Stat. 339) as amended
7 to which patent has not been issued to the State of Alaska
8 upon the date of this Act and such preferred right of applica-
9 tion created by section 4 of the Act of September 27, 1944
10 (58 Stat. 746, 43 U.S.C. 282), as now or hereafter
11 amended, but not over other preference rights now conferred
12 by law.

13 The lands which each group of natives may select under
14 this section shall not exceed in total acreage the product of the
15 number of persons on the temporary roll of the native group
16 multiplied by the estimated land selection factor determined
17 by the Secretary under section 203.

18 **§ 203. Temporary withdrawal to protect preference rights**

19 Each native group shall, within one hundred twenty
20 days of the date of this Act, file with the Secretary a nomi-
21 nation of lands it desires to be withdrawn temporarily from
22 State selection or selection by others pending selection of
23 lands by it under section 202 in order to reserve such nomi-
24 nated lands for selection under the preference provisions of

1 section 202. If a native group fails to make such nomination
2 the Secretary shall forthwith nominate an area on its behalf,
3 which he deems suitable for selection under section 202.

4 The Secretary shall forthwith, and not later than six
5 months after the date of this Act, withdraw temporarily from
6 State selection, or selection by others, lands generally in con-
7 sonance with the nominations but not exceeding in total area
8 the product of the number of persons the Secretary estimates
9 will be on the final roll of the native group multiplied by his
10 estimate of the land selection factor but not more than five
11 hundred. The total acreage so withdrawn for all native
12 groups shall not exceed forty million acres, including lands
13 otherwise withdrawn or reserved.

14 Lands not so nominated for withdrawal five months after
15 the date of this Act shall thereafter be open to State selection
16 notwithstanding the provisions of section 202, and lands not
17 so withdrawn six months after the date of this Act shall simi-
18 larly thereafter be open to State selection.

19 The temporary withdrawal for each group shall termi-
20 nate upon the end of the six-month preference period pro-
21 vided by section 202.

22 The nomination of lands under this section may be made
23 prior to incorporation of the native group or prior to the date
24 of this Act by the village council or other existing governing
25 body of the native group and the nomination may be made,

1 if appropriate, by the regional association or regional
2 corporation.

3 § 204. Withdrawn lands

4 (a) Where any lands desired by such native group have
5 been withdrawn, title shall nevertheless be granted, if the
6 withdrawal is for purposes related to native use or the admin-
7 istration of native affairs, or if the Secretary finds that such
8 lands would contribute significantly to the livelihood of the
9 group, and that in his judgment the grant should be made
10 and he is otherwise empowered to revoke the withdrawal.

11 (b) Where any lands desired by such native group
12 have been withdrawn or reserved, title also may be granted
13 in the following manner: The native group shall forward
14 the nomination of such lands for selection to the Alaska
15 Native Commission, which shall require the agency having
16 primary jurisdiction over such withdrawn or reserved land
17 to establish to the satisfaction of the Alaska Native Com-
18 mission by adequate proof of existing public purpose and
19 necessity, that it would be against the public interest to
20 release the nominated lands. If the Commission is not so
21 satisfied it shall make a report in the matter to the Congress
22 and the Congress may, by simple resolution concurred in
23 by a majority of the Members present and voting in each
24 House of the Congress, at its concurrent or next succeeding
25 session, approve all or any portion of the selection, which

1 shall thereupon become a final selection, entitling the native
2 group to title under the provisions of this Act.

3 (c) Where any lands desired by such native group for
4 preference selection of lands under section 202 have been
5 withdrawn for wildlife reservation, reindeer reservation, bird
6 refuge, recreational reserves, or wildlife withdrawal, the title
7 shall nevertheless be granted to such native group with the
8 approval of the Secretary.

9 (d) Where any lands desired by such native group for
10 preference selection of lands under section 202 have been
11 withdrawn as National Forests in Alaska, title shall never-
12 theless be granted to such native group with the approval of
13 the Secretary of Agriculture: *Provided*, That not more than
14 one hundred thousand acres shall be granted from the national
15 forests.

16 **§ 205. General provisions as to selections**

17 All lands granted in quantity to and authorized to be
18 selected by native groups by this Act shall be selected in
19 such manner as and in conformity with such regulations as
20 the Secretary may prescribe. All selections shall be made in
21 reasonably compact tracts, taking into account the situation
22 and potential uses of the lands involved and each tract
23 selected shall contain at least five thousand seven hundred
24 and sixty acres unless isolated from other tracts open to
25 selection.

1 The authority to make selections shall never be alienated
2 or bargained away, in whole or in part, by a native group
3 except, under the procedures in this Act provided, to other
4 native groups, to regional native corporations, or to the State
5 of Alaska.

6 **§ 206. Temporary roll**

7 The Secretary shall proceed forthwith upon the effective
8 date of this Act, to conduct a temporary enrollment of
9 each such native group. The period of temporary enrollment
10 shall be six months at the close of which period the temporary
11 roll shall be closed.

12 **§ 207. Final roll**

13 Upon the completion and certification of the final roll of
14 a native group the Secretary shall advise the native group of
15 the total acreage of lands which it may select under this title,
16 the total which it has theretofore selected (based upon the
17 temporary roll) and the time remaining to complete its selection,
18 which if less than five years shall be extended to five
19 years from the time such notice is given. If such native
20 group has selected more land under the temporary roll than
21 it is entitled to select under the final roll it shall determine
22 within six months which lands to reconvey (or selections to
23 release if patent has not been granted) to reduce the amount
24 of lands selected to that allowable under the final roll,

1 § 208. Preferred right of selection as to withdrawn lands

2 Upon the revocation of any order of withdrawal in
3 Alaska within the area claimed by such native group by
4 Indian title, the order or revocation shall provide for a
5 period of not less than ninety days before the date on which
6 it otherwise becomes effective during which period the native
7 group shall have a preferred right of selection, subject to the
8 requirements of this Act, except as against prior existing
9 valid rights or as against equitable claims subject to allow-
10 ance and confirmation by the Commission. Such preferred
11 right of selection shall have preference over the preferred
12 right of selection created by section 6 (g) of the Act of July
13 7, 1958 (72 Stat. 339) and over the preferred right of ap-
14 plication created by section 4 of the Act of September 27,
15 1955 (58 Stat. 748; 43 U.S.C. 282) as now or hereafter
16 amended, but not over other preference rights now conferred
17 by law. The native group shall be forthwith served with a
18 copy of the order and the Secretary of the Interior shall forth-
19 with advise the native group of its right of selection and the
20 method of exercising that right. If the native group is not so
21 served and advised the effective date of the order is thereby
22 suspended until sixty days after service is effected and the
23 advice given.

24 § 209. Surveys and patents

25 Where any lands desired by a native group are unsur-

1 veyed at the time of their selection the Secretary shall never-
2 theless grant patent but shall subsequently survey the exterior
3 boundaries of the area requested without any interior subdivi-
4 sion thereof and shall issue an amended patent for such
5 selected area in terms of the exterior boundary survey; where
6 any lands desired by a native group are surveyed at the time
7 of their selection, the boundaries of the area requested shall
8 conform to the public land subdivision established by the
9 approval of the survey.

10 The requirement for exterior boundary survey shall be
11 satisfied without continuous marking of the line, but by estab-
12 lishment of monuments along all the boundaries, except
13 meander courses, by electronic measurement or other means,
14 at intervals of not more than six thousand feet, or by exten-
15 sion of the rectangular system of surveys over the areas
16 selected.

17 All lands duly selected by a native group pursuant to
18 this Act shall be patented, at the option of the native group,
19 to the native group in fee or in fee to a trustee for the native
20 group.

21 **§ 210. Tentative approval**

22 Following the selection of land by a native group and
23 the tentative approval of such selection by the Secretary of
24 the Interior or his designee, but prior to the issuance of

1 patent, such native group is hereby authorized to execute
2 conditional leases and to make conditional sales of such se-
3 lected lands.

4 **§ 211. Trust**

5 Title to lands selected by a native group which chooses
6 to have title held by a trustee shall be held by a trustee or
7 board of trustees selected by the native group, which may
8 be the statewide native corporation, the appropriate regional
9 corporation, the Secretary of the Interior, or a board com-
10 posed of individual trustees approved by him.

11 The term of a trust established pursuant to this section
12 shall not exceed twenty-five years, and when the trust ex-
13 pires title to the corpus of the trust shall vest in the native
14 group.

15 The native group may choose to have all moneys re-
16 ceived by such group held by the trustee. A trustee who re-
17 ceives a conveyance or moneys under this section shall be
18 subject to the laws of Alaska governing the execution of
19 trusts, and shall have the powers and duties set forth in the
20 deed of trust, including without limitation subdivision, man-
21 agement, and disposal of the lands or moneys, investment and
22 reinvestment of the proceeds, and distribution of income or
23 capital of the trust to the members of the beneficiary.

24 So long as the lands or moneys are held by the Secretary
25 of the Interior in trust, he shall have all the power to admin-

1 ister the trust which he could confer upon another trustee,
2 but he shall not be subject to the law of Alaska governing
3 the execution of trusts.

4 **§ 212. In lieu selections**

5 In the case of native groups within whose area claimed
6 by Indian title there are not sufficient lands in Federal
7 ownership to allow selection by a group of all of the lands
8 granted to it under this title, the native group may select
9 lands elsewhere in Alaska in addition to all available lands
10 within its area, but such selection shall be subject to the
11 prior preference right of selection of other native groups
12 under section 202 and section 208. Such "in lieu" selections
13 shall not be deemed to be within the area claimed by Indian
14 title for the purposes of section 202 and section 208.

15 Lands which the commission determines to be of little
16 or no value, such as icecaps, glaciers, and mountain tops,
17 and other barren lands, need not be selected by the native
18 group before selecting lands elsewhere in Alaska under this
19 section.

20 Lands granted under this section shall be subject to a
21 one-sixth royalty upon all proceeds therefrom which is hereby
22 granted to the native group within whose area of occupancy
23 the in lieu lands are situated, and to a one-sixth royalty upon
24 all proceeds therefrom which is hereby granted to the state-
25 wide native corporation.

1 **§ 213. Interim administration under public land laws**

2 There is hereby temporarily withdrawn, subject to valid
3 existing rights, from all forms of appropriation under any of
4 the public land laws, including without limitation selection by
5 the State of Alaska under the Statehood Act of July 8, 1958
6 (72 Stat. 339), all lands that are subject to selection by any
7 group of natives in Alaska within an area claimed by them
8 under title under section 202: *Provided*, That upon the ex-
9 piration of the preference period set forth in section 202, the
10 interim withdrawal of lands pursuant to this section 213
11 deemed to be terminated as to all lands expressly affected
12 thereby, except those theretofore nominated or withdrawn
13 under section 203 and such lands shall be deemed restored by
14 explanation of law and without the necessity of any order of
15 restoration or other affirmative Act. In no effect shall any
16 interim withdrawal pursuant to this section 213 continue in
17 force and effect beyond the first anniversary date of the
18 approval of this Act.

19 **§ 214. Reservations and reserves**

20 (a) The areas of land and waters heretofore reserved
21 and set aside for the use of the native inhabitants of Akutan,
22 Diomedes, Karluk, Unalakleet, Venetie, and Wales are hereby
23 granted to the respective native groups which include such
24 inhabitants. Such grant is not deemed to be under section

1 201 and such native groups shall not be included under this
2 title except that, to the extent such areas are smaller than
3 the area to which a group consisting solely of such inhabi-
4 tants would be entitled, the group shall be entitled to select
5 additional lands under regulations of the Commission.

6 (b) The various reserves set aside by Executive order
7 or Secretarial order for native use or for administration of
8 native affairs, including those created under authority of the
9 Act of May 31, 1938 (52 Stat. 593) shall be revoked by
10 the grant of patent pursuant to this Act.

11 **§ 215. Native Allotment Act**

12 Natives as citizens may acquire public lands of the
13 United States under the Native Allotment Act of May 17,
14 1906 (34 Stat. 197), as amended (48 U.S.C. 357), or the
15 provisions of other applicable statutes, notwithstanding the
16 passage of this Act.

17 **§ 216. Taxation and local laws**

18 So long as the lands granted to a native group by this
19 title are held by such groups or in trust for such groups, and
20 so long as no interests of native members of a group are
21 alienable to persons not descended from an Alaskan native
22 the interest of such native group in such lands shall not be
23 taxed or assessed. Rents, issues, profits, and other revenue

1 or proceeds derived from such lands shall be taxable to the
2 same extent as such revenues or proceeds are taxable when
3 received by private persons and corporations.

4 Private leaseholds, contracts, or interests in land or prop-
5 erty owned or held by such native groups shall be taxable
6 to the extent of the interests.

7 A native group may make payments to a municipal corpo-
8 ration of the State of Alaska in lieu of taxation or assess-
9 ment but the amount shall not exceed the amount that would
10 be due if the lands were subject to taxation and assessment
11 for local public improvements.

12 The lands granted by this title shall be subject in all other
13 respects to all of the applicable laws, ordinances, and regu-
14 lations of the State of Alaska and its municipal corporations
15 or subdivisions.

16 **§ 217. Federal highway allocations and fire protection**

17 Lands granted by this title shall, so long as the fee
18 therein remains not subject to State or local taxes, continue
19 to be regarded as public lands for the purpose of computing
20 the Federal share of any highway project pursuant to title
21 23 of the United States Code, as amended and supplemented.

22 Lands granted by this title shall, so long as the fee therein
23 remains not subject to State or local taxes and so long as
24 there are no revenues from the lands, continue to receive
25 forest fire protection services from the United States at no

1 cost to the owner: *Provided*, That when there are revenues
2 the owner may contract for forest fire protection services
3 with the United States so long as the fee remains exempt
4 from such taxes.

5 **§ 218. Rights of certain occupants**

6 (a) In the disposal of any land by a native group the
7 group (or trustee therefor) shall give a preference right to
8 the occupant thereof. The Commission shall prepare a roll
9 of persons eligible to be granted lots in a village under this
10 section.

11 (b) The title to land conveyed to a native under this
12 section shall, at his election, be subject to the provisions of
13 section 1 of the Act of May 25, 1926 (44 Stat. 629; 48
14 U.S.C. 355a), for a period of not to exceed twenty-five years
15 with respect to lands conveyed to Indians, Aleuts, or Eski-
16 mos in townsites established under section 11 of the Act of
17 March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as supple-
18 mented by the Act of February 26, 1948 (62 Stat. 35; 48
19 U.S.C. 355 (e)).

20 (c) A village group (or trustee therefor) may convey
21 land granted under this Act, after receiving a patent, with-
22 out compensation to a private religious, charitable, or educa-
23 tional institution occupying such land with buildings or facili-
24 ties owned by it on the date of the patent.

1 **§ 219. Additional township grants**

2 The Secretary of the Interior may grant to a native
3 group lands in addition to those granted by this Act if he
4 finds that such additional grant is warranted by the economic
5 needs of the native group or his determination that the native
6 group has not received a reasonably fair and equitable por-
7 tion of the lands settled upon all native groups and granted
8 by this Act.

9 Criteria applicable to these situations shall be developed
10 by the Alaska Native Commission and shall be made avail-
11 able to the Secretary as advisory recommendations.

12 **§ 220. Priority between State and native selections absent**
13 **preference rights**

14 In the event of conflicting selections by any native group
15 and the State of Alaska, in the absence of preferences given
16 by this Act, first in time is first in right as to the lands
17 selected by both. Any dispute arising under this section shall
18 be adjudicated by the Commission, subject to the provisions
19 of this Act.

20 **§ 221. Contracts with the Alaska Division of Lands**

21 A native group (or trustee therefor) may contract with
22 the State of Alaska or any of its agencies, such as the Alaska
23 State Division of Lands for the management of lands granted
24 to it under this Act: *Provided*, That no sale, lease, exchange,
25 or other disposal of such lands may be made without the

1 approval of the governing body of the native group (or the
2 trustee). The contract may cover all or a portion of the lands
3 of the native group, shall be terminable upon reasonable
4 notice by either party, and shall provide for the terms of
5 management by reference to law or regulation or otherwise.

6 **§ 222. Conveyance, release, and redistribution of land selec-**
7 **tion rights**

8 Any native group may release all or any part of its
9 authority to make selections to the Commission, which shall
10 redistribute such authority under the standards set forth in
11 section 219, and authority so released shall not be deemed
12 to have been received by such native group or to have been
13 of value to it.

14 Any native group may convey all or any part of the
15 authority to make selections to the State of Alaska in con-
16 sideration of land conveyed by the State to such native
17 group or, with the approval of the Commission, for other
18 consideration.

19 Any native group may convey all or any part of its
20 authority to make selections to any other native group, native
21 regional corporation, and statewide native corporation under
22 such rules and regulations as the Commission may prescribe.

23 Any selections unused by any native group twenty-five
24 years after the certification of the final roll shall be subject

1 to redistribution by the Commission within five years there-
2 after under the standards prepared under section 210.

3 **§ 223. State not to lose entitlement**

4 Selections of Federal lands by the State of Alaska under
5 the Alaska Statehood Act which are voided by reason of
6 preference rights granted to and exercised by the natives
7 of Alaska under this Act shall not be deemed to reduce
8 the amount of land granted by the Statehood Act and for
9 such purpose shall be regarded as an ineffective exercise
10 of the power of selection of lands determined not available
11 for selection.

12 **TITLE III—OUTER CONTINENTAL SHELF**

13 **ROYALTY**

14 **§ 301. Grant of royalty**

15 The natives of Alaska are hereby granted and shall be
16 entitled to 10 per centum of all revenues hereafter received
17 by the United States from the Outer Continental Shelf bor-
18 dering the State of Alaska, to be distributed as herein pro-
19 vided, for a term of not less than twenty-five years. Such
20 revenues when received by the United States shall be de-
21 posited in a special account in the United States Treasury.

22 **§ 302. Advance on royalty**

23 There are authorized to be appropriated and deposited
24 in the special account \$20,000,000, which shall be considered

1 an advance against future Outer Continental Shelf revenues
2 to be deposited in the special account pursuant to section 301
3 of this Act. The advance shall be repaid by deducting each
4 year one-half of the revenues that would otherwise be de-
5 posited in the special account that year, and depositing them
6 in miscellaneous receipts of the Treasury until the full
7 amount of the advance is repaid.

8 **§ 303. Computation of term**

9 In computing the minimum term of the royalty granted
10 by section 301 of this Act there shall be excluded from the
11 period any year in which the revenues received by the
12 United States and deposited in the special account are less
13 than \$1,000,000, any year in which the full 10 per centum
14 of revenues, pursuant to section 302, are not deposited in the
15 special account, and any year in which no revenues are de-
16 posited in the special account.

17 **§ 304. Modification and termination**

18 After the end of the minimum term of the royalty and
19 at ten-year intervals thereafter, the Secretary of the Interior
20 shall submit to Congress a report and recommendations with
21 respect to the royalty granted by this title, and Congress
22 thereafter may increase, reduce, modify, or terminate the
23 royalty, but not as to revenues theretofore received by the
24 United States.

1 § 305. Distribution to native groups

2 (a) Each year, on a date selected by the Secretary of
3 the Interior, the Secretary shall apportion 75 per centum
4 of the unallocated revenues then in the special account
5 among the native groups in Alaska. The apportionment shall
6 be on the basis of the number of natives in each native group
7 whose names are on the rolls prepared pursuant to sections
8 206 and 207 of this Act. The money apportioned shall be
9 paid to each incorporated native group approved by the
10 Commission, and shall be available for use in accordance
11 with the annual budgets prepared by the native group, sub-
12 mitted to and not disapproved by the Commission. The right
13 to disapprove such budgets shall expire when the corpora-
14 tion terminates benefits and limits distributions to dividends
15 from earned surplus.

16 (b) Until such time as the money apportioned to native
17 groups of Tlingit and Haida Indians in Court of Claims
18 docket numbered 47,9000, exceeds the money apportioned
19 under this section to such native groups, such portion shall be
20 withheld and reapportioned to the other native groups. How-
21 ever, moneys apportioned to such Tlingit and Haida groups
22 before actual receipt of moneys from such judgment shall not
23 be withheld, but shall be regarded as a loan bearing 5 per
24 centum interest which shall be repaid to the special account
25 from the judgment moneys when received.

1 (c) Until such time as the money apportioned to any
2 native group which obtains a final money award from the
3 Indian Claims Commission exceeds any money so awarded
4 to such native group, the money apportioned under this sec-
5 tion to such a native group shall be withheld and reappor-
6 tioned to the other native groups. However, moneys appor-
7 tioned to such native groups before actual receipt of moneys
8 from such judgment shall not be withheld, but shall be re-
9 garded as a loan bearing 5 per centum interest which shall
10 be repaid to the special account from the awarded moneys
11 when received.

12 **§ 306. Distribution to native regional corporations**

13 Twenty per centum of the unallocated revenues in the
14 special account each year shall be apportioned by the Secre-
15 tary of the Interior among corporations to be organized un-
16 der the laws of Alaska for the purpose of promoting the wel-
17 fare of natives enrolled in the native groups of the geo-
18 graphic region represented by each corporation. The articles
19 of incorporation must be approved by the Commission. Such
20 corporations shall be organized to represent all regions in
21 Alaska in which enrolled natives reside. The money appor-
22 tioned to each corporation shall be paid to the corporation
23 for use in accordance with the annual budgets prepared by
24 the corporation, submitted to and not disapproved by the

1 Commission. The right to disapprove such budgets shall ex-
2 pire twenty-five years after the date of this Act.

3 **§ 307. Distribution to native statewide corporation**

4 Five per centum of the unallocated revenues in the
5 special account each year shall be apportioned by the Secre-
6 tary of the Interior to the corporation to be organized under
7 the laws of Alaska for the purpose of promoting the welfare
8 of all natives enrolled in native groups under this Act. The
9 articles of incorporation must be approved by the Com-
10 mission. The money apportioned to this corporation shall
11 be paid to it for use in accordance with the annual budgets
12 prepared by the corporation, submitted to and not disap-
13 proved by the Commission. The right to disapprove such
14 budgets shall expire fifteen years after the date of this Act.

15 **§ 308. Temporary advancements**

16 Not to exceed 75 per centum of the funds subject to
17 apportionment under sections 305, 306, and 307 of this
18 Act shall be apportioned by the Secretary on the basis of
19 estimates of native population prior to the completion of the
20 final rolls prepared pursuant to section 207 of this Act, and
21 such apportionments shall be adjusted when the final rolls
22 are available.

23 **§ 309. Development of revenues**

24 The Secretary of the Interior shall proceed with the eco-
25 nomic development of the Outer Continental Shelf bordering

1 the State of Alaska expeditiously and without delay. The
2 Secretary shall annually advise the Commission on the status
3 of and plans for such development, and the Commission shall
4 thereafter make its recommendations thereon to the
5 Secretary.

6 **TITLE IV—ABORIGINAL OCCUPANCY**

7 **§ 401. Aboriginal use and occupancy right**

8 The natives of Alaska may continue to use or occupy,
9 for hunting, fishing, and trapping purposes, and for any other
10 aboriginal land use any lands in Alaska that are owned by
11 the United States.

12 Such use or occupation may be made subject to reason-
13 able conditions by regulations adopted by the Secretary of
14 the Interior.

15 Such use or occupancy may be reserved in any patents
16 or leases hereafter issued on public lands in Alaska pursuant
17 to the Alaska Statehood Act, or the public land, mining, and
18 mineral leasing laws if the Secretary thereafter grants a per-
19 mit or permits to continue such use of the land, but the right
20 to grant such permits shall not extend beyond one hundred
21 years after the date of this Act.

22 **§ 402. Termination and compensation**

23 Termination of aboriginal use and occupancy, whether
24 by termination of the permit herein provided for, the patent

1 or lease of public lands without reservation, land withdrawal
2 or reservation, or otherwise, shall not be compensable.

3 **TITLE V—GENERAL PROVISIONS**

4 **§ 501. Final settlement of native claims**

5 The provisions of this Act shall be regarded as full settle-
6 ment of all claims against the United States based upon
7 aboriginal right, title, use, or occupancy of lands in Alaska
8 by natives of Alaska, except claims now pending before the
9 Indian Claims Commission or the Court of Claims by previ-
10 ous authorization of Congress. The provisions of the Act of
11 May 17, 1884 (23 Stat. 24), and the Act of June 6, 1900
12 (31 Stat. 321), declaring that the natives shall not be dis-
13 turbed in the possession of any lands used, occupied, or
14 claimed by them, but reserving for future legislation the
15 terms and conditions by which the natives may acquire title,
16 are repealed.

17 **§ 502. Time for filing claims**

18 Each group of natives in Alaska may file a claim
19 grounded upon aboriginal use and occupancy from time im-
20 memorial, or file an amendment to such a claim heretofore
21 filed with the United States, within six months of the date of
22 this Act. Such claims or amendments thereto may be filed
23 with the Bureau of Land Management until the Alaska
24 Native Commission has been appointed, and thereafter with
25 the Commission. The Bureau of Land Management shall

1 transmit promptly to the Commission all claims that have
2 been filed with it previous to the appointment of the Com-
3 mission, as well as those received thereafter.

4 **§ 503. Conflicting claims**

5 The Alaska Native Commission is vested with jurisdic-
6 tion to hear and equitably determine conflicting claims be-
7 tween native groups or to reduce a claim area upon petition
8 of the State of Alaska, the Secretary of the Interior, or any
9 aggrieved person. Resolution of a conflicting claim may in-
10 clude granting each group an interest in the area in conflict.

11 **§ 504. Claims of new villages**

12 Native groups related to native villages which have
13 been established or which have moved during recorded
14 history, such as the village of Beaver, shall be permitted to
15 file a claim based upon aboriginal use and occupancy during
16 such period.

17 **§ 505. Claims of abandoned villages**

18 A native group related to a native village which has
19 been abandoned involuntarily during recorded history, or
20 which has been absorbed by a nonnative community, may
21 file a claim based upon aboriginal use and occupancy before
22 such involuntary abandonment or absorption.

23 **§ 506. Merger of claims and groups**

24 Native groups and native group corporations may merge
25 or may merge their claims. Regional associations may con-

1 stitute the successor to such merged groups and corporations
2 and may file a claim on behalf of all, and the regional native
3 association or corporation shall, in such event, also be deemed
4 to mean native group or incorporated native group provided
5 for herein. The Alaska Native Commission may regulate such
6 mergers, including those occurring before the date of this
7 Act.

8 **§ 507. Enrollment**

9 The Secretary of the Interior shall conduct a temporary
10 and a final enrollment for every native group in Alaska, as
11 provided in sections 206 and 207 of this Act.

12 Each native group may determine its terms of member-
13 ship and, thereby, of enrollment: *Provided*, That each native
14 of Alaska, regardless of present residence, shall be afforded
15 an opportunity to be enrolled in a native group. In the event
16 a native is denied enrollment by any or all appropriate native
17 groups, he may apply for enrollment to the Commission,
18 which, if it finds him otherwise entitled to enrollment, shall
19 order him enrolled by the native group it deems most appro-
20 priate, such as the native group related to the village in
21 which or nearest which he resides, or from which he or an
22 ancestor came.

23 A native of Alaska is entitled to enrollment upon the
24 rolls of only one native group.

25 If the temporary or final roll of a native group contains

1 less than twenty-five natives, those enrolled thereon shall be
2 placed on the rolls of other native groups, as the Commission
3 finds appropriate, and the first enrollment canceled.

4 **§ 508. Enrollment of regional native corporations and the**
5 **statewide native corporation**

6 The enrollment of a regional native corporation shall
7 consist of the several rolls of the native groups of the region.
8 Every native group shall be entitled to have its roll included
9 as a part of the roll of only one regional corporation and,
10 if denied, may apply to the Commission for an order placing
11 it on the roll of the regional corporation found appropriate
12 by the Commission. There shall be no more than twenty
13 regional native corporations.

14 The rolls of all native groups shall constitute the rolls of
15 the statewide native corporation.

16 **§ 509. Exclusion of Metlakahtla Indians**

17 Metlakahtla Indians are excluded from the benefits of
18 this Act. The blood quantum derived by an Alaska native
19 from a Metlakahtla Indian shall be excluded in determining
20 minimum blood quanta under this Act. The Annette Islands
21 Reservation and the communities within it shall not consti-
22 tute a native group hereunder. However, nothing in this
23 Act shall be construed to impair the benefits granted to
24 Metlakahtla Indians by section 15 of the Act of May 17,

1 1884 (23 Stat. 26), and other benefits to which they may
2 be entitled under other laws.

3 **§ 510. Alaska Federation of Natives and regional asso-**
4 **ciations**

5 The Alaska Federation of Natives may become the state-
6 wide native corporation and existing regional native associa-
7 tions may become regional native corporations as provided
8 in this Act, and in the State Native Claims Act of 1968, by
9 filing appropriate articles of incorporation or amended articles
10 of incorporation under that Act, duly approved by the Com-
11 mission as provided herein.

12 If all of the native groups of an existing regional asso-
13 ciation which has filed a blanket claim on behalf of all na-
14 tives of that region do not seek incorporation as native
15 groups and do not request separate enrollment, the interest
16 of such native groups shall be deemed to have merged in the
17 regional native association or corporation, which corporation
18 shall be deemed an incorporated native group when appro-
19 priate.

20 **§ 511. Continuation of programs**

21 Special services performed by the United States for
22 Indians, Aleuts, and Eskimos because of their status as In-
23 dians, Aleuts, or Eskimos shall continue to be performed and
24 the passage of this Act shall not be cause for the reduction
25 or elimination of such services, except and to the extent

1 that the need for such services in the course of time may be
2 reduced by reason of the benefits provided by this Act.

3 **§ 512. Incorporation**

4 All native groups and regional native corporations and
5 the statewide native corporation shall be incorporated under
6 the Alaska Business Corporation Act, as the same may be
7 supplemented by the proposed State Native Claims Act of
8 1968 or similar legislation.

9 So long as the shares in such a corporation may not be
10 held by a person not enrolled under this Act or descended
11 from a person enrolled under this Act, the corporation shall
12 be deemed an incorporated tribal group and subject to appro-
13 priate restrictions imposed by this Act and the State Native
14 Claims Act of 1968.

15 A corporation organized as provided herein shall not be
16 an agency or instrumentality of the United States for any
17 purpose, and the United States shall not be responsible for
18 the corporation's actions or debts unless specifically guar-
19 anteed or insured by the United States.

20 A corporation organized as provided herein may be
21 sued in the same manner as any private business corporation.

22 **§ 513. Alternative incorporation under the Indian Reor-**
23 **ganization Act**

24 Native groups required to incorporate shall have the
25 option to incorporate under the Indian Reorganization Act

1 as an alternative to incorporation under Alaska law:

2 *Provided, That—*

3 (a) residence shall not be restricted and residence
4 or proposed residence shall not be made a restriction on
5 membership or shareholding, voting of shares, or receipt
6 of benefits from the corporation, except that distribu-
7 tion of land in kind for townsite lots, fish campsites,
8 or other aboriginal use may be limited to residents, but
9 continued residence shall not be made a condition of any
10 such distribution of land in kind; and

11 (b) the corporation shall not make any per capita
12 distribution.

13 An existing corporation chartered under the Indian
14 Reorganization Act may be recognized as the incorporated
15 native group by the Commission. A corporation organized
16 under this section may be sued in the same manner as any
17 private business corporation. The Commission may make
18 such rules and regulations as it deems necessary or proper to
19 give effect to this section, including conversion to a corpora-
20 tion under Alaska law.

21 **§ 514. Taxation**

22 (a) Lands held by a corporation and revenues there-
23 from shall be taxable to the extent provided in section 216.

24 (b) Royalties received by a corporation from grants

1 made by this Act or the State Native Claims Act of 1968
2 shall not be taxed to the corporation.

3 (c) Dividends paid to shareholders shall be taxable to
4 the shareholder.

5 (d) Distributions during the period distributions are
6 allowed under the State Native Claims Act of 1968 shall not
7 be taxable to the shareholders or other recipients.

8 (e) Liquidation payments shall be taxable, but only to
9 the extent of gain during the period the property was re-
10 ceived and held by the corporation.

11 **§ 515. Authorization for appropriation**

12 There are authorized to be appropriated not more than
13 \$5,000,000, to be available until expended, to defray the
14 expenses of taking the temporary and permanent rolls here-
15 under, of the Alaska Native Commission, and of otherwise
16 carrying out this Act.

17 **§ 516. Definitions**

18 As used in this Act, the following definitions apply:

19 (a) A "native group" means any tribe, band, village,
20 community, association, or other identifiable group of In-
21 dians, Aleuts, or Eskimos of Alaska, residents in Alaska, in-
22 cluding identifiable groups of residents of a locality which, as
23 such a group, claims Indian title to land in Alaska by virtue
24 of aboriginal use and occupancy at any time.

1 (b) The terms "native" and "Alaska native" mean
2 any Alaskan Indian, Eskimo, or Aleut of at least one-fourth
3 degree Indian, Eskimo, or Aleut blood or, in the absence
4 of proof of a minimum blood quantum, who is regarded as
5 native by the native group in which he claims enrollment,
6 and whose father or mother was regarded as native by that
7 or any other native group.

8 (c) A "regional native association" means an association
9 of natives or native groups organized to represent the in-
10 terests of the natives of a region of Alaska which is greater
11 than the area occupied or formerly occupied by a historic
12 native group. The interests of native groups within the re-
13 gion may be merged in the regional association.

14 (d) A "regional native corporation" means a corpora-
15 tion organized under the laws of Alaska and this Act, repre-
16 senting the interests of the natives of a particular region of
17 Alaska. The interests of native groups within the region may
18 be merged in the regional native corporation.

19 (e) The term "group" or "native group" may, when
20 appropriate, include not only "native group" but also "re-
21 gional native association", "regional native corporation" and
22 the statewide native corporation.

23 (f) The "Outer Continental Shelf" means the sub-
24 merged lands subject to the jurisdiction and control of the

1 United States under the Outer Continental Shelf Lands Act
2 of 1953 (67 Stat. 462).

3 **§ 518. Short title**

4 This Act shall be known and cited as the Federal Alaska
5 Native Claims Act of 1968.

IN THE HOUSE OF REPRESENTATIVES

Mr. ASPINALL (by request) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

To provide for the settlement of aboriginal 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 1968".

6 SEC. 2. For the purposes of this Act, the term—

7 (a) “Secretary” means the Secretary of the Interior;

(b) "Native" means an Alaska Indian, Eskimo, or Aleut of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof, excluding Tsimshian Indian blood; and

1 (e) "Native group" means any village, community, or
2 association in Alaska composed of twenty-five or more
3 Natives and approved by the Secretary.

4 DECLARATION OF POLICY

5 SEC. 3. Congress finds and declares that there is an
6 immediate need for a fair and just settlement of land claims
7 by Natives of Alaska, and that a fair and just settlement
8 should provide for (a) a grant to each Native group of title
9 to their present village sites, and to additional lands in the
10 vicinity of the villages that will be needed for reasonable
11 community expansion to fulfill future economic and social
12 requirements, (b) a reasonable payment to Native groups
13 for the purpose of enhancing their present and future welfare,
14 and (c) exclusive Native hunting, fishing, trapping, and
15 berry-picking on Federal lands not granted to the Native
16 groups. It is the purpose of this Act to provide for such
17 settlement.

18 DECLARATION OF SETTLEMENT

19 SEC. 4. The provisions of this Act shall be regarded as
20 full and final settlement of any and all claims against the
21 United States based upon aboriginal right, title, use, or
22 occupancy of lands in Alaska by Natives, including claims
23 pending before the Indian Claims Commission that are based

1 on such aboriginal right, title, use, or occupancy in which a
2 final judgment has not been entered on the date of this Act.
3 Such claims shall be dismissed by the Commission.

4 GRANT OF LANDS

5 SEC. 5. (a) The Secretary, upon his own initiative and
6 without application, is authorized to grant to each Native
7 group, subject to valid existing rights, (1) title to the village
8 site or sites now occupied by such group, and (2) title to such
9 additional lands in the vicinity of such site or sites which, in
10 his judgment, would contribute significantly to reasonable
11 community expansion and to the fulfillment of future eco-
12 nomic and social requirements of the group, taking into ac-
13 count such factors as population, economic resources, tradi-
14 tional way of life, and the nature and value of the lands.
15 Such grant may include noncontiguous lands that are used
16 and occupied by the Natives for burial grounds, airfields,
17 water supply, hunting and fishing camps, and dock or boat-
18 launching sites. In the case of Native villages in locations
19 where sufficient additional lands in Federal ownership are
20 not available to permit the grant of additional lands contem-
21 plated by this subsection, the Secretary may grant other
22 lands in lieu thereof subject to the same conditions and limi-

1 tations that apply to grants of land within the vicinity of a
2 village.

3 (b) A grant of land to a Native group under this section
4 shall not exceed fifty thousand acres, and shall not include
5 land withdrawn for purposes unrelated to Native use or the
6 administration of Native affairs.

7 (c) The provisions of this section shall not apply to
8 Native groups who are beneficiaries of the judgment re-
9 covered by the Tlingit and Haida Indians in Court of Claims
10 docket Numbered 47900.

11 RESERVATIONS AND RESERVES

12 SEC. 6. (a) The areas of lands and waters heretofore
13 reserved and set aside by Executive or secretarial order for
14 the use of the Native groups of Akutan, Diomedes, Karluk,
15 Unalakleet, Venetie, and Wales are hereby granted to said
16 groups, respectively.

17 (b) Not to exceed fifty thousand acres in any other
18 reserve set aside by Executive or secretarial order for Native
19 use or for administration of Native affairs, including those
20 created under authority of the Act of May 31, 1938 (52
21 Stat. 593), may be granted, subject to any valid existing
22 rights of non-Natives, to the Native group using or occupy-
23 ing the land on the date of enactment of this Act. Such grant
24 shall revoke the Executive or secretarial order.

25 (c) To the extent any area granted under subsection

1 (a) or (b) is smaller than the area that could have been
2 granted to the Native group under the terms of section 5
3 of this Act, additional lands may be granted to the Native
4 group by the Secretary, subject to the same conditions and
5 limitations that apply to grants under section 5.

6 (d) A grant of lands and waters under subsection (a)
7 or (b) shall include all mineral interests therein.

8 INTERIM ADMINISTRATION UNDER PUBLIC LAND LAWS

9 SEC. 7. (a) As soon as possible after the date of this
10 Act, the Secretary shall withdraw, subject to valid existing
11 rights, from all forms of appropriation under any of the pub-
12 lic land laws, including without limitation selection by the
13 State of Alaska under the Statehood Act of July 7, 1958
14 (72 Stat. 339), any lands which he believes may be subject
15 to grant to a Native group pursuant to this Act, but not to
16 exceed a total of twenty million acres. Such withdrawals
17 shall be revoked as rapidly as grants to Native groups permit.
18 A State selection of lands that are withdrawn shall not be
19 approved, regardless of whether the selection was initiated
20 before or after the withdrawal, until the withdrawal is
21 revoked.

22 (b) A Native claim based on use and occupancy of
23 unwithdrawn land shall not be the basis for the rejection of
24 State selections or other applications or claims under the
25 public land laws.

1 (c) Either before withdrawing lands under this section
2 or before granting a patent pursuant to this Act, the Secre-
3 tary shall consult with the Secretary of Defense with respect
4 to the effect of the withdrawal or grant on the security of
5 the United States.

6 (d) Nothing in this Act shall affect the rights of Natives
7 as citizens to acquire public lands of the United States under
8 the Native Allotment Act of May 17, 1906 (34 Stat. 197),
9 as amended (48 U.S.C. 357), or the provisions of other
10 applicable statutes.

11 (e) Lands granted pursuant to this Act shall, so long as
12 they remain not subject to State or local taxes on real estate,
13 continue to be regarded as public lands for the purpose of
14 computing the Federal share of any highway project pur-
15 suant to title 23 of the United States Code, as amended and
16 supplemented.

17 (f) Any lands granted in fee or in trust under this Act
18 shall be subject to the right of the Secretary to issue and
19 enforce for the protection of migratory birds regulations in
20 accordance with the provisions of the Migratory Bird Treaty
21 Act, as amended.

22 (g) The Secretary is authorized to make any grant of
23 land under this Act subject to easements for any public use,
24 benefit, or purpose, including easements for the administra-
25 tion and utilization of any Federal lands.

1 (h) Prior to conveyance of land under this Act, the
2 Secretary shall have its exterior boundaries surveyed. This
3 requirement for survey shall be satisfied without continuous
4 marking of the line, but by establishment of monuments along
5 all the boundaries, except meander courses, by electronic
6 measurement or other means, at intervals of not more than
7 six thousand feet, or by extension of the rectangular system
8 of surveys over the areas conveyed. Conveyances of surveyed
9 lands shall be in accordance with the plats of survey, and
10 those for unsurveyed lands shall, following survey, be so
11 conformed.

12 TRUSTS

13 SEC. 8. (a) Title to land granted under this Act to a
14 Native group shall be held by the United States in trust for
15 the group. The term of the trust shall be for twenty-five years
16 from the date title is granted, unless sooner terminated by the
17 Secretary on application of the Native group. When a trust
18 terminates it shall be liquidated in accordance with regula-
19 tions prescribed by the Secretary. Whenever a distribution of
20 capital or income of the trust is made to the Native group,
21 the determination of the Secretary with respect to qualified
22 recipients shall be final and conclusive.

23 (b) The Secretary, as trustee, is authorized to subdivide,
24 manage, and dispose of by sale, lease, or other method the

1 lands or interests therein, to invest and reinvest the proceeds,
2 and to distribute income or capital of the trust to the Native
3 group. In the disposal of any tract of land the trustee shall
4 give a right of first refusal to the occupant thereof. The title
5 to land conveyed by the trustee to a Native shall be subject to
6 the provisions of section 1 of the Act of May 25, 1926 (44
7 Stat. 629; 48 U.S.C. 355a), with respect to lands conveyed
8 to Natives in townsites established under section 11 of the
9 Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as
10 supplemented by the Act of February 26, 1948 (62 Stat.
11 35; 48 U.S.C. 355e). The trustee may convey without com-
12 pensation to private religious, charitable, or educational
13 institutions or organizations any trust land occupied by build-
14 ings or facilities owned by them on the date the trust is
15 established.

16 MINERALS

17 SEC. 9. All mineral interests in lands granted to a Native
18 group pursuant to section 5 or subsection 6 (c) of this Act
19 shall be conveyed by the Secretary, subject to valid existing
20 rights of any non-Native, to the Corporation established
21 pursuant to section 10 of this Act. One-half of all revenues
22 received by the Corporation in the administration of such
23 mineral interests shall be paid to such Native group, and one-
24 half shall be retained by the Corporation for corporate pur-
25 poses. When the corporation is dissolved, or when so pro-

1 vided by Act of Congress, such mineral interests shall be
2 conveyed to the Native group.

3 NATIVE ECONOMIC IMPROVEMENT CORPORATION

4 SEC. 10. (a) The Secretary shall arrange for incorpora-
5 tion under the laws of Alaska of a single nonprofit state-
6 wide Native Economic Improvement Corporation, herein-
7 after referred to as the "Corporation," for the purpose of
8 promoting economic opportunity for the Natives and their
9 descendants in Alaska. The corporate charter or other or-
10 ganization documents shall provide for election of a Board
11 of Directors by the Natives in Alaska on a basis which the
12 Secretary determines will assure adequate representation of
13 all such Natives; for appointment by the Board of a President
14 who shall be responsible for carrying out the Corporation's
15 functions in a businesslike manner consistent with the pro-
16 visions of this Act and the policies and directives of the
17 Board, and for appointment of such other officers as the
18 Board deems desirable; and for employment by the President
19 of the Corporation's other agents and employees.

20 (b) The Corporation, in accordance with such standards
21 as the Commission established by this Act may from time to
22 time prescribe, shall be given authority, among other things,
23 to—

24 (1) initiate and coordinate the preparation of long-

1 range economic development programs for the Natives
2 and their descendants;

3 (2) foster or undertake surveys and studies to pro-
4 vide data required for the preparation of specific plans
5 and programs of development;

6 (3) promote private investment in enterprises or
7 activities which will improve the economic status of
8 Natives and their descendants;

9 (4) develop, establish, operate, and maintain var-
10 ious business enterprises or invest in such enterprises to
11 develop, improve, and utilize skills and capabilities of
12 the Natives and their descendants;

13 (5) make loans to Natives and their descendants in
14 Alaska on reasonable terms and conditions to finance
15 plant construction, reconstruction, conversion, or expan-
16 sion, the acquisition of equipment, facilities, machinery,
17 supplies, or materials, and for any other purpose that will
18 promote economic development for the Natives and their
19 descendants in Alaska, where financial assistance is not
20 otherwise available on reasonable terms;

21 (6) make grants to Native groups for the develop-
22 ment and operation and maintenance of projects which
23 will promote the welfare of the Natives and their de-
24 scendants; and

25 (7) lease competitively, in accordance with sound

1 conservation principles and practices, the minerals held
2 by the Corporation.

3 (c) The Corporation shall not be regarded as an instru-
4 mentality of the United States for any purpose, and the
5 United States shall not be responsible for the Corporation's
6 actions or debts. The members of the Board, the manager,
7 and the other officers, agents, and employees of the Corpora-
8 tion shall not be regarded as Federal employees for any
9 purpose.

10 (d) The Corporation shall maintain complete and ac-
11 curate books of account and records which shall be reviewed
12 by said Commission periodically. The Commission shall
13 periodically report to the Congress, through the Secretary
14 and the President, but at not less than three-year intervals,
15 on the activities and financial condition of the Corporation.

16 (e) Notwithstanding the definitions of Native and Na-
17 tive group in section 2 of this Act, Indians enrolled in the
18 Metlakatla Indian Tribe of the Annette Island Reserve shall
19 be regarded as Natives for the purposes of this section.

20 TAXATION

21 SEC. 11. So long as the lands granted to a Native
22 group by this Act are held by the United States in trust,
23 and so long as the minerals conveyed to the Corporation are
24 retained by the Corporation, such land and minerals shall
25 not be subject to State or local taxes upon real estate. Rents,

1 issues, profits, royalties, and other revenues or proceeds de-
2 rived from such lands by a Native or his descendant or a
3 non-Native shall be subject to Federal and State or local tax
4 laws. Payments made to the Corporation under section 14 of
5 this Act shall not be taxed to the Corporation. Leasehold
6 or other interests in such lands held by non-Natives may be
7 taxed as provided by State law. No part of any per capita
8 distribution of funds granted to a Native group under section
9 14 of this Act or of mineral revenues paid to a Native group
10 by the Corporation under section 9 of this Act shall be sub-
11 ject to Federal or State income tax. The Corporation shall
12 be organized and operated in a manner which will enable it
13 to qualify for tax exemption under section 501 of the Inter-
14 nal Revenue Code of 1954.

15 ENROLLMENT

16 SEC. 12. The Secretary shall prepare a roll of Natives
17 living on the date of this Act, and a roster of Native groups
18 eligible to receive any grant under this Act. Before any roster
19 or roll is finally approved by the Secretary, it shall be pub-
20 lished in such manner as he shall find to be practicable, and
21 an opportunity shall be given to lodge protests thereto. The
22 Secretary's findings shall be conclusive. The roll shall show
23 the Native group to which each Native belongs. Each Native
24 shall be afforded an opportunity to be enrolled in the group
25 among which or nearest which he resides or in the group

1 from which an ancestor came, under regulations issued by
2 the Secretary.

3 ABORIGINAL USE

4 SEC. 13. The Secretary may, with the concurrence of the
5 head of the agency administering the land, issue permits to
6 Natives in Alaska giving them the exclusive privilege for not
7 more than fifty years from the date of this Act to hunt, fish,
8 trap, and pick berries, in accordance with applicable State
9 and Federal laws and regulations, on any land in Alaska that
10 is owned by the United States. Such permit shall not pre-
11 clude other uses of the land, and shall terminate if the land is
12 patented or leased. Any patent or lease hereafter issued for
13 such land pursuant to the Alaska Statehood Act, or the pub-
14 lic land, mining, or mineral leasing laws, shall reserve to the
15 United States for fifty years from the date of this Act the
16 right to issue to Natives nonexclusive hunting, fishing, trap-
17 ping, and berrypicking permits.

18 GRANT OF MONEY

19 SEC. 14. (a) In lieu of according the Natives any right
20 to recover compensation for the extinguishment of aboriginal
21 title, there is authorized to be appropriated and deposited
22 in a special account in the United States Treasury to the
23 credit of the Natives a sum computed and appropriated as
24 follows: The lesser of (1) \$3,000 multiplied by the number

1 of names appearing on the roll prepared pursuant to section
2 12 of this Act, or (2) \$180,000,000, shall be apportioned
3 among the Native groups on the basis of the relative number
4 of enrolled Natives in each group. The amount of the net
5 judgment awarded to the Tlingit and Haida Indians in
6 Court of Claims docket numbered 47900, after payment
7 of attorney fees and litigation expenses, shall then be de-
8 ducted from the apportionment to the various groups on the
9 basis of the ratio of the number of Tlingit and Haida Indians
10 enrolled in each group to the total number of Tlingit and
11 Haida Indians enrolled in all groups. One-third of the ad-
12 justed apportionment to each group is authorized to be
13 appropriated and deposited to the credit of the group in the
14 special account during fiscal year 1971, and the balance is
15 authorized to be appropriated and deposited in the special
16 account in equal amounts in the succeeding four fiscal years.
17 Deposits shall earn interest at the rate of 4 per centum
18 per annum from the date of deposit.

19 (b) Each year the Secretary shall make available to
20 each Native group 90 per centum of the money in the special
21 account credited to it, including accrued interest thereon,
22 and the money may be advanced, expended, invested, or
23 reinvested for any purpose that is authorized by the govern-
24 ing body of the Native group and approved by the commis-
25 sion established pursuant to section 16 of this Act. The re-

1 maining 10 per centum shall be paid to the corporation es-
2 tablished pursuant to section 10 of this Act.

3 ALASKA NATIVE COMMISSION

4 SEC. 15. In order to assist the Secretary in the adminis-
5 tration of this Act, the President shall appoint an Alaska
6 Native Commission of not to exceed three members who
7 shall serve at the pleasure of the President. A majority of
8 the members shall have been residents of Alaska for one or
9 more years preceding appointment. The Commission shall
10 be located within the Department of the Interior and shall
11 have the duties and powers prescribed in this Act and such
12 other duties and powers as the Secretary may from time to
13 time delegate. The Secretary shall also prescribe the com-
14 pensation to be paid to the members and provide for payment
15 of Commission expenses, including employment of necessary
16 personnel. The Secretary may utilize, with or without reim-
17 bursement, personnel and facilities of the Department of the
18 Interior to assist the Commission in carrying out its functions.

19 NATIONAL FOREST LANDS

20 SEC. 16. Native groups shall qualify as communities
21 within the meaning of section 6 (a) of the Alaska Statehood
22 Act.

23 APPROPRIATIONS

24 SEC. 17. (a) There are authorized to be appropriated
25 to the Secretary such sums as may be necessary to defray

1 the costs of the planning, subdivision, survey, management,
2 and disposal of lands under this Act, either directly by the
3 Secretary or by contract, and to pay the expenses of the
4 Commission established pursuant to this Act, and to carry
5 out other functions authorized by this Act. Such sums shall
6 be available until expended.

7 (b) There are authorized to be appropriated to the
8 Secretary such sums as may be necessary to pay all reason-
9 able attorneys' fees and expenses actually incurred by any
10 Native or Native group, as determined by the Secretary, in
11 connection with any claims pending before the Indian Claims
12 Commission on the date of enactment of this Act which are
13 dismissed pursuant to section 4 of this Act.

14 (c) At the beginning of each Congress the Secretary
15 shall report to the Speaker of the House and the President of
16 the Senate the grants of land made under this Act and an
17 estimate of the time needed to complete the grants. The re-
18 porting may be discontinued when the grants are sub-
19 stantially completed.

20 REPEAL

21 SEC. 18. Section 3 of the Act of May 25, 1926 (44 Stat.
22 630; 48 U.S.C. 355c), is hereby repealed.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 30, 1968.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Since transmitting legislation to the Congress last June to settle the claims of Alaska Natives which was introduced as H.R. 11213, a new bill (H.R. 15049) prepared by the Governor of Alaska's Task Force on Native Land Claims was introduced. That bill, in our opinion, represents significant progress toward reaching agreement among the interested parties on the principles for an equitable settlement of this long-standing problem.

The early resolution of this matter would be of inestimable significance not only to the Alaska Natives who make up about 25 percent of the State's civilian population, but also to all citizens of the State.

We believe that this issue is one of the most important Indian matters before the 90th Congress. President Johnson in his message "The Forgotten American" urged "prompt action on legislation to:

"Give the native people of Alaska title to the lands they occupy and need to sustain their villages.

"Give them rights to use additional lands and water for hunting, trapping and fishing to maintain their traditional way of life, if they so choose.

"Award them compensation commensurate with the value of any lands taken from them."

Enclosed is a proposed bill which carries out the three principles outlined by the President. We urge its early enactment in lieu of H.R. 11213 or H.R. 15049.

The Act of May 17, 1884 (23 Stat. 24), providing a civil government for the Territory of Alaska, declared that the Natives "shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them, but the terms and conditions under which such persons may acquire title to such lands is reserved for future legislation by Congress." A similar provision is contained in the Act of June 6, 1900 (31 Stat. 321), which provided a civil government for Alaska.

In the absence of Congressional action, the Natives cannot be given full title to the lands they have traditionally used and occupied. Moreover, since the Natives have a Federal guarantee that they shall not be disturbed in their use and occupation of lands, we do not feel that we can allow lands to be patented to the State under the land selection provisions of the Alaska Statehood Act, July 7, 1958 (72 Stat. 339), in the face of the Natives' claims that they have traditionally been using and occupying such lands. To allow these lands to pass into other ownership would pre-empt from Congress the power to exercise its right and obligation to decide this issue, and would deny the Alaska Natives an opportunity to acquire title to lands which in many instances, it is generally admitted, they have openly and continuously used and occupied from a period that antedated the purchase of Alaska by the United States.

When Congress recognizes an aboriginal title, as it did in the Act of June 19, 1935 (49 Stat. 388), with respect to the claims of the Tlingit and Haida Indians to compensation for the expropriation by the United States of lands in south-eastern Alaska, and for failure of the United States to protect their property rights from usurpation by non-Indians, the Natives acquire a compensable ownership interest in the land that is protected by the due-process clause of the Constitution.

The extent to which aboriginal or Indian title is to be recognized is exclusively a policy matter for Congressional determination. In the past, Congress has repeatedly shown great respect for aboriginal title and has dealt most generously with the Indian people. Once the Congress recognizes the Government's obligation to pay just compensation for Indian title, the courts have consistently held that the applicable standard of valuation, in the absence of a statutory provision to the contrary, is the same as if the Indians held the property in fee simple ownership.

We have long grappled with the problem of providing a fair and equitable settlement to the Natives' land claims. We have come to realize, however, that there is no easy solution that is equitable to all. A number of proposals have

been made in the past. They have, however, met considerable opposition from the various interested parties.

While H.R. 11213 and H.R. 15049 generally adhere to the principles set out by the President, we believe that they have some basic shortcomings. Upon further consideration, we now believe that the proposal (H.R. 11213) to grant jurisdiction to the United States Court of Claims to adjudicate a general claim on behalf of all Natives of Alaska and to render judgment based on the market value of the Natives' aboriginal title as of March 30, 1867, the date of purchase of Alaska by the United States, does not now offer the best approach to the problem. Moreover, because of the length of time involved in judicial proceedings to determine the extent of Indian title and its value, and the difficulties attendant to obtaining the detailed factual information upon which to base such a determination with respect to the vast area of the State of Alaska, we no longer recommend judicial determination of Native claims. It is our position that after weighing the equities involved and the data available, the Congress can arrive at a just solution to this complex problem.

H.R. 15049, on the other hand, while providing for a more generous settlement, is objectionable in three major aspects.

First, in our opinion the grant of 40 million acres to the Natives is much greater than is required to give them title to the lands they need for village expansion. The purpose of a land settlement of this magnitude is clearly to allow the Natives to select land primarily for investment purposes. While we recognize the need of the Natives for resources that will provide continuing income to facilitate their transition to a wage-oriented society, we believe this need can be met far more equitably by providing ready cash.

Second, we believe that the land selection provisions of H.R. 15049 are far too cumbersome and complicated. The legislation should provide a workable, speedy, and simple mechanism for granting to each Native group a sufficient amount of land to meet its needs.

H.R. 15049 would not be speedy. On the contrary, it would let the selection process drag on for 25 years.

Also, we continue to advocate the basic land grant provisions contained in H.R. 11213. They would grant to the various groups the village sites they occupy, and additional lands within the environs of those sites that will contribute significantly to the livelihood of the Natives. The maximum acreage for any group would be 50,000 acres, which should be adequate to meet the Natives' needs, both present and future.

In addition, we do not believe that there is any need for an adjudication of Native claims by a Commission. While we support the need for a Commission, its role should be directed to monitoring the use of the funds available to the villages and Native corporation. Native representation on such a Commission would clearly be desirable, but we do not believe that the legislation should provide for its control by the Natives as in H.R. 15049. The President should be free to choose the best people available.

Further, we are opposed to the provision in H.R. 15049 which would require a Federal agency to justify to the Commission that its lands are needed for public purposes, and to any provisions authorizing a grant of various wildlife and recreational reservations. We also oppose the provision related to National forests. The needs of the Native groups bounded by National forest lands can be met from the 400,000 acres of such lands allowed the State under section 6(a) of the Alaska Statehood Act.

Third, we believe that an open-ended provision for utilizing Outer Continental Shelf revenues would not be in the best interest of the Natives or the Nation. If Alaskan OCS receipts do not live up to expectations, such a mechanism as outlined in H.R. 15049 might result in the Natives obtaining less than adequate compensation, leaving Congress with the possibility of facing the issue again in the future. On the other hand, if the Shelf proves to be a bountiful producer, the revenues to the Natives might far exceed any reasonable relationship to the Natives' claims. It is our opinion that a more definite and more equitable solution would be to grant the Natives a fixed cash settlement, based on the value of the lands taken from them as recommended in the President's message on Indians.

In the absence of lengthy and costly litigation it is impossible to determine the precise value of the Natives' claims.

The economic needs of Alaska's Natives are unquestioned. Native housing is generally considered to be the most primitive and dilapidated of any occupied by native people in the United States. Income is lower and unemployment higher

than among Indians anywhere. Increased acculturation, the absence of employment opportunities, and the ever-decreasing availability of subsistence opportunities have contributed to a growing dependence on welfare. Exposure to the white man's way of life has generated in the Native needs he had never known, without adequate means for their satisfaction.

In the valuation process there are a number of variables:

- (1) The extent of the Natives' aboriginal title.
- (2) The date or dates as of which the valuation should be made.
- (3) The actual value of the lands on those dates.

A rough approximation of value can be derived from the Tlingit and Haida award of the Court of Claims. The Court held that the Indians had established aboriginal Indian title to virtually the entire Alaskan archipelago by their exclusive use and occupancy of that area from time immemorial. Based on the standards adopted by the Court of Claims, it is possible that the various Indian, Eskimo, and Aleut groups could establish aboriginal title to practically all of the remaining area of Alaska, roughly 350 million acres. This land would be worth over \$150 million at the Tlingit and Haida valuation which averaged 43 cents an acre.

We believe that in line with the principles outlined by the President that a settlement involving up to 50,000 acres per village that will total some 8 to 10 million acres, plus the payment of \$3,000 per person of \$180 million, whichever is the lesser, is an equitable and just settlement for these claims. In addition, we are aware that the State of Alaska has recently passed legislation providing for payment to the Natives annually of 5 percent of the revenues derived from lands selected by the State under the Alaska Statehood Act, up to a maximum of \$50 million. While we are concerned that this action has been made contingent upon this Department's lifting the "freeze" on the patenting of State selections that conflict with Native claims, we are very pleased that the State has evidenced a desire to join with the Federal Government in contributing to an equitable resolution of this problem. It is our hope that the State will see fit to amend its legislation to provide that a larger portion of its annual contributions be channeled to the Native Economic Improvement Corporation proposed in our bill in order that it may be used for projects that will provide continuing income to Alaska's Natives.

Accordingly, the enclosed proposed bill, we believe, would adequately provide an equitable settlement to the Natives.

Also, enclosed is a brief explanation of its major provisions.

The Bureau of the Budget has advised that this legislative proposal is in accord with the President's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

A BILL To provide for the settlement of certain land claims of Alaska Natives, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1968."

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

- (a) "Secretary" means the Secretary of the Interior;
- (b) "Native" means an Alaska Indian, Eskimo, or Aleut of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof; and
- (c) "Native group" means any tribe, band, clan, village, community, or association in Alaska composed of twenty-five or more eligible Natives and approved by the Secretary.

DECLARATION OF POLICY

SEC. 3. Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by Natives of Alaska by providing (a) a grant to each Native group of title to their village sites that are now being used by said group and to additional lands in the vicinity of the villages that will be needed for reasonable community expansion to fulfill future economic and social requirements, (b) a reasonable payment to Native groups for the purpose of

enhancing the present and future welfare of the Natives in Alaska, and (c) provision for Native hunting, fishing, tapping, and berry picking, within Federal lands not granted to the Native groups; and that it is the purpose of this Act to provide such a settlement.

DECLARATION OF SETTLEMENT

SEC. 4. The provisions of this Act shall be regarded as full and final settlement of any and all claims against the United States based upon aboriginal right, title, use, or occupancy of lands in Alaska by Natives or arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), including claims pending before the Indian Claims Commission by previous authorization of Congress and not finalized by said Commission on the date of enactment of this Act.

GRANT OF LANDS

SEC. 5. (a) Subject to the provisions of this Act, the Secretary, upon his own initiative and without application, is authorized to grant, in trust, to each Native group, subject to valid existing rights and if not withdrawn for purposes unrelated to Native use or the administration of Native affairs, (1) title to the village site or sites now occupied by such group, and (2) title to such additional lands in the vicinity of such site or sites which, in his judgment, would contribute significantly to the reasonable community expansion to fulfill future economic and social requirements, 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 granted: *Provided*, That, at any time during the term of the trust, the Secretary, upon application of the Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted under this subsection to said group. Such grant may include a grant of title to noncontiguous lands being used and occupied by such Natives for burial grounds, airfields, water supply, hunting and fishing camps, and dock or boat-launching sites that are not withdrawn for other purposes. In the case of Native villages in locations where there are not sufficient additional lands in Federal ownership to permit the Secretary to make the grant of additional lands contemplated by this subsection, the Secretary may convey other lands in lieu thereof but subject to the same conditions and limitations that apply to conveyances of land within the vicinity of a village.

(b) In no case may the grant of land to a Native group under this section exceed fifty thousand acres.

(c) The provisions of this section shall not apply to Native groups who are beneficiaries of the judgment recovered by the Tlingit and Haida Indians in Court of Claims Docket No. 47,900.

RESERVATIONS AND RESERVES

SEC. 6. (a) The areas of lands and waters heretofore reserved and set aside by Executive or Secretarial order for the use of the Native groups of Akutan, Diomede, Karluk, Unalakleet, Venetie, and Wales shall be granted in trust to said groups. To the extent such areas are smaller than the areas of land that could be granted to each group under the terms of section 5 of this Act, additional lands may be granted to the group, in trust, by the Secretary: *Provided*, That the total grant shall not exceed fifty thousand acres.

(b) The various reserves set aside by Executive or Secretarial order for Native use or for administration of Native affairs, including those created under authority of the Act of May 31, 1938 (52 Stat. 593), shall be revoked, subject to any valid existing rights of any non-Natives, by the grant of title in trust by the Secretary of up to fifty thousand acres of land now covered by such order to the Native group using or occupying said lands on the date of enactment of this Act.

(c) At any time during the term of the trust covering lands granted under this section, the Secretary, upon application of a Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted to said groups.

(d) The grant of lands under this section now covered by an Executive or Secretarial order shall include the underlying mineral deposits.

INTERIM ADMINISTRATION UNDER PUBLIC LAND LAWS

SEC. 7. (a) As soon as possible after the effective date of this Act, the Secretary shall, subject to valid existing rights, withdraw from all forms of appropriation under any of the public land laws, including without limitation selection by the State of Alaska under the Statehood Act of July 7, 1958 (72 Stat. 339), any lands which he believes may be subject to a grant to a Native group pursuant to this Act, but not to exceed a total of 20 million acres. Such withdrawals shall be revoked as rapidly as grants to Native groups permit. A State selection of lands that are withdrawn shall not be approved, regardless of whether the selection was initiated before or after the withdrawal, until the withdrawal is revoked.

(b) A Native claim based on use and occupancy of unwithdrawn land shall not be the basis for the rejection of State selections or other applications or claims under the public land laws.

(c) Either before withdrawing lands under this section or before granting a patent pursuant to this Act, the Secretary shall consult with the Secretary of Defense with respect to the effect of the withdrawal or grant on the security of the United States.

(d) Nothing in this Act shall affect the rights of Natives as citizens to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended (48 U.S.C. 357), or the provisions of other applicable statutes.

(e) Lands granted pursuant to this Act shall, so long as they remain not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented.

(f) Any lands granted in fee or in trust under this Act shall be subject to the right of the Secretary to issue and enforce for the protection of migratory birds regulations in accordance with the provisions of the Migratory Bird Treaty Act, as amended.

(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.

(h) Prior to conveyance of land under this Act, the Secretary shall have its exterior boundaries surveyed. This requirement for survey shall be satisfied without continuous marking of the line, but by establishment of monuments along all the boundaries, except meander courses, by electronic measurement or other means, at intervals of not more than six thousand feet, or by extension of the rectangular system of surveys over the areas conveyed. Conveyances of surveyed lands shall be in accordance with the plats of survey, and those for unsurveyed lands shall, following survey, be so conformed.

TRUSTS

SEC. 8. (a) Title to land granted under this Act to a Native group in trust shall be held by the United States in trust, acting through the Secretary as trustee. The term of a trust established by, or pursuant to, this section shall not exceed twenty-five years from the date of any grant made under this Act, and when the trust terminates it shall be liquidated in accordance with the terms of the trust instrument or as prescribed by the Secretary, if there is no trust instrument, or as prescribed in sections 5 and 6 of this Act. Whenever a distribution of capital or income of the trust is made to the Native group, the finding of the Secretary as to the qualified recipients shall be final and conclusive.

(b) The Secretary, as trustee, under this Act shall have the powers and duties set forth in the deed of trust, including without limitation, subdivision, management, and disposal by sale, lease, or other method, of the lands or interests therein, except the mineral interests in lands granted under section 5 of this Act, investment and reinvestment of the proceeds, and distribution of income or capital of the trust to the Native group and he shall not be subject to the laws of Alaska governing the execution of trusts. In the disposal of any tract of land under the trust, the trustee shall give a right of first refusal to the occupant thereof. The title to land conveyed by the trustee to a Native shall be subject to the provisions of section 1 of the Act of May 25, 1926 (44 Stat. 692; 48 U.S.C. 355a), with respect to lands conveyed to Natives in townsites established under section 11 of the Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as supplemented by the Act of February 26, 1948 (62 Stat. 35; 48 U.S.C. 355e). The trustee may

convey without compensation to private religious, charitable, or educational institutions or organizations the land occupied by buildings or facilities owned by them on the date the trust is established, where such buildings or facilities are situated within the boundaries of the land to be granted pursuant to this Act.

MINERALS

SEC. 9. Subject to valid existing rights of any non-Native, the Secretary upon granting in trust or in fee any lands under section 5 of this Act to a Native group shall grant to the Corporation established by section 10 of this Act title to all mineral deposits in said lands together with the right to mine and remove the same under leases issued by said Corporation. Said Corporation shall hold such minerals in trust for the benefit of each Native group having the surface lands and shall administer the trust in accordance with the applicable provisions of this Act and the laws of Alaska governing the execution of trust. All revenues received by the Corporation in the administration of such trust shall be shared equally each year with the Native group that has title to the lands from which such receipts were derived. Whenever the trust terminates by reason of the dissolution of said Corporation or by subsequent Act of Congress, the Secretary shall convey title to such mineral deposits, subject to valid existing rights, to the Native group having title to the surface lands.

NATIVE ECONOMIC IMPROVEMENT CORPORATION

SEC. 10. (a) There shall be established a single nonprofit statewide Native Economic Improvement Corporation, hereinafter referred to as the "Corporation," for the purpose of promoting economic opportunity for the benefit of the Natives and their descendants in Alaska. The Corporation shall be organized as approved by the Secretary under the laws of the State of Alaska. The Board of Directors of the Corporation shall be elected by the Natives in Alaska on a basis, determined by the Secretary, which will assure adequate representation of all such Natives and their descendants. The Board shall appoint a manager of the Corporation and such other officers as the Board deems desirable to serve at the Board's pleasure, and shall fix their compensation. It shall be the responsibility of the manager to carry out the Corporation's functions in a business-like manner consistent with the provisions of this Act and the policies and directives of the Board. The manager shall select the Corporation's agents and employees, define their duties, and fix their compensation.

(b) The Corporation, in accordance with such standards as the Commission established by this Act may from time to time prescribe, may, among other things:

(1) Initiate and coordinate the preparation of long-range overall economic development programs for the Natives and their descendants;

(2) Foster surveys and studies to provide data required for the preparation of specific plans and programs of development;

(3) Promote private investment in enterprises or activities which will improve the economic status of Natives and their descendants;

(4) Develop, establish, operate, and maintain various business enterprises or invest in such enterprises to develop, improve, and utilize skills and capabilities of the Natives and their descendants;

(5) Make loans to Natives and their descendants in Alaska on reasonable terms and conditions to finance plant construction, reconstruction, conversion, or expansion, the acquisition of equipment, facilities, machinery, supplies, or materials, and for any other purpose that will promote effectively economic development for the Natives and their descendants in Alaska, where financial assistance applied for is not otherwise available on reasonable terms;

(6) Make grants to one or more Native groups for the development and operation and maintenance of projects which will promote the welfare of the Natives and their descendants; and

(7) Lease competitively, in accordance with sound conservation principles and practices, the minerals held in trust by the Corporation.

(c) The Corporation shall not be regarded as an instrumentality of the United States for any purpose and the United States shall not be responsible for the Corporation's actions or debts. The members of the Board, the manager, and the other officers, agents, and employees of the Corporation shall not be regarded as Federal employees for any purpose.

(d) The Corporation shall at all times maintain complete and accurate books of account and records which shall be reviewed by said Commission periodically. The Commission shall periodically report to the Congress, through the Secretary and the President, but at not less than three-year intervals on the activities and financial condition of the Corporation.

TAXATION

SEC. 11. So long as the lands granted to a Native group by this Act and the minerals granted to the Corporation are held by such group or by a Native or his descendants or by the Corporation in fee or in trust, such land and minerals shall not be subject to State or local taxes upon real estate. Rents, issues, profits, royalties, and other revenues or proceeds derived from such lands by a Native or his descendant or a non-Native shall be subject to Federal and State or local tax laws. Payments made under this Act or under any State statute to the Corporation shall not be taxed to the Corporation. Leasehold or other interests in such lands held by non-Natives may be taxed as provided by State law. No part of any per capita distribution made by a Native group of any or all of the funds granted to said group under section 14 of this Act or of any or all of the mineral revenues paid to said group by the Corporation under section 9 of this Act shall be subject to Federal or State income tax. The Corporation shall be organized and operated in a manner which will enable such Corporation to qualify for tax exemption under section 501 of the Internal Revenue Code of 1954.

ENROLLMENT

SEC. 12. The Secretary shall prepare a roll of Natives, and he shall prepare a roster of Native groups eligible to receive any grant under this Act. Such roll and roster shall be determined as of the date of this Act. Rolls of Natives and descendants eligible to vote in any election held pursuant to this Act may be prepared by the Secretary from time to time. Before any such roster or roll is finally approved by the Secretary, it shall be published in such manner as he shall find to be practicable and effective, and an opportunity shall be given to lodge protests thereto. The Secretary's findings shall be conclusive. Each Native shall be afforded an opportunity to be enrolled in the city, town, or village in which or nearest which he resides or in the city, town, or village from which an ancestor came, under regulations issued by the Secretary.

ABORIGINAL USE

SEC. 13. The Secretary may permit the Natives of Alaska to use for fifty years or less from the date of this Act exclusively for hunting, fishing, trapping, and berry picking purposes any land in Alaska that is owned by the United States, in accordance with applicable State and Federal laws and regulations and with the concurrence of the head of any agency administering such land. Any patents or leases hereafter issued for such lands pursuant to the Alaska Statehood Act, or the public land, mining, or mineral leasing laws, shall contain a reservation to the United States of the right to issue for non-exclusive hunting, fishing, trapping, and berry picking purposes, permits for up to fifty years from the date of this Act.

GRANT

SEC. 14. (a) In lieu of according the Natives any right to recover compensation for the extinguishment of aboriginal title, there is authorized to be appropriated and deposited in a special account in the United States Treasury to the credit of the Natives such sums as may be necessary to make a grant to each Native group (1) in an amount computed on the basis of \$3,000 for each Native in said group, except that, in the case of any Tlingit and Haida Natives in said group, there shall be deducted their pro rata share, after attorneys' fees and litigation expenses, of the money judgment awarded to them in Court of Claims docket numbered 47,900, or (2) in the amount of \$180 million, whichever is the lesser sum. One-third of the grant shall be deposited into the special account during fiscal year 1971 and the remainder deposited into the account in equal amounts in each of the succeeding four fiscal years and shall earn interest in the amount of 4 percent per annum.

(b) Each year the Secretary shall apportion 90 percent of the funds then in the special account among the Native groups in Alaska. The apportionment shall be in the ratio that the number of Natives in each Native group bears to all of the

Natives. The funds apportioned among each Native group may be advanced, expended, invested, or reinvested for any purpose that is authorized by the governing organization of the Native group and that is approved by the Commission established by this Act. Each year the remaining funds then in the special account shall be credited to the Corporation and such funds, together with all other revenues available to the Corporation, may be expended by the Corporation, in accordance with an annual budget prepared by the Corporation and approved by said Commission.

(c) Before apportioning any money under the provisions of subsection (b) of this section to the Native groups composed of Tlingit and Haida Natives who participated in or received benefits from, the judgment awarded to the Tlingit and Haida Natives in Court of Claims docket numbered 47,900, the Secretary shall deduct the pro rata share, after the deduction of attorneys' fees and litigation expenses, of said money judgment.

METLAKAHTLA INDIANS

SEC. 15. The provisions of this Act shall not apply to the Native groups of Metlakahla Indians in the Annette Island Reservation but such groups shall be eligible to receive any benefits the Corporation may provide.

ALASKA NATIVE COMMISSION

SEC. 16. In order to assist the Secretary in the administration of this Act, the President may appoint an Alaska Native Commission of not to exceed three members who shall serve at the pleasure of the President. A majority of the members shall have been residents of Alaska for one or more years preceding appointment. The Commission shall be located within the Department of the Interior and shall have the duties and powers prescribed in this Act and such other duties and powers as the Secretary may from time to time delegate. The Secretary shall also prescribe the compensation to be paid to the members and provide for payment of Commission expenses, including employment of necessary personnel. The Secretary may utilize, with or without reimbursement, personnel and facilities of the Department of the Interior to assist the Commission in carrying out its functions.

NATIONAL FOREST LANDS

SEC. 17. The Native groups shall qualify as communities within the meaning of section 6(a) of the Alaska Statehood Act.

APPROPRIATIONS

SEC. 18. (a) There are authorized to be appropriated to the Secretary such sums as may be necessary to defray the costs of the planning, subdivision, survey, management, and disposal of lands under this Act, either directly by the Secretary or by contract, and to pay the expenses of the Commission established by this Act, and to carry out other functions authorized by this Act. Such sums shall be available until expended.

(b) There is authorized to be appropriated to the Secretary such sums as may be necessary to pay all reasonable attorneys' fees and expenses actually incurred by any Native or Native group, as determined by the Secretary, in connection with any claims pending at the date of enactment of this Act before the Indian Claims Commission, which have been terminated by reason of section 4 of this act.

(c) At the beginning of each Congress the Secretary shall report to the Speaker of the House and the President of the Senate the grants made under this Act and an estimate of the time needed to complete the grants. The reporting may be discontinued when the grants are substantially completed.

REPEAL

SEC. 19. Section 3 of the Act of May 25, 1926 (44 Stat. 630; 48 U.S.C. 355c) is hereby repealed.

BRIEF EXPLANATION OF MAJOR PROVISIONS OF PROPOSED "ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1968"

1. The proposal would provide that the benefits accruing under the legislation to the Native groups shall be in full and final settlement of any and all claims

based on aboriginal use, etc., or arising under an 1884 and 1900 statute. This settlement would include claims now pending before the Indian Claims Commission under other Acts of Congress but not finalized by the Commission on the date of enactment. The proposal authorizes appropriations to pay reasonable attorney fees and expenses in connection with these claims.

2. The proposal would define Native groups to mean tribes, bands, clans, villages, communities, or associations in Alaska composed of 25 or more Natives and approved by the Secretary.

3. The proposal would authorize the making of a grant in trust to each Native group of unwithdrawn land or village sites and additional lands for future economic and social well-being. The maximum grant to any Native group would be 50,000 acres. At any time during the term of the trust the Secretary upon application of the group and approval by him of a land use plan shall terminate the trust for all or part of the lands granted for the benefit of the said group. The land grant may include title and trust to noncontiguous lands being used and occupied by the Natives for various purposes such as burial grounds, air fields, water supply, and hunting and fishing camps. In any case where the Native villages are located in an area where there are not sufficient additional Federal lands to permit the contemplated grant, the Secretary may convey other lands which would be subject to the same conditions.

4. The land grant proposal would not apply to Native groups who are beneficiaries of the Tlingit and Haida award in the Court of Claims.

5. Lands and waters previously reserved for the use of six named Native groups shall be held in trust by the United States for their benefit for a 25-year period at the end of which time the trust may be liquidated. In addition, at any time during the term of that trust, such groups may apply for the termination of the trust upon approval by the Secretary of a land use plan submitted by them. The 50,000-acre limitation does not apply to these six groups, except, to the extent that such areas are smaller than areas that could be conveyed generally by grant and lands in the immediate vicinity of these areas are available, additional lands may be granted up to the 50,000-acre limitation.

6. The various reservations set aside by Executive order or Secretarial order for Native use shall be revoked by the grant of title under section 6 of this proposal.

7. The proposal provides for withdrawal by the Secretary from all forms of authorization under public land laws any lands which he believes may be subject to a grant to a Native group under this proposal, but the total withdrawal shall not exceed 20 million acres. The withdrawal must be revoked as quickly as possible if the grants are made and the State selection of lands withdrawn shall not be approved until the withdrawal is finally revoked.

8. Lands granted under this proposal that continue to remain not subject to State or local taxes on real estate shall be regarded as public lands for the purposes of the Federal Aid Highway Act.

9. Land granted in trust, except the underlying minerals, to a Native group shall be held by the Secretary of the Interior as trustee. The maximum term of the trust shall be 25 years and when the trust terminates it shall be liquidated in accordance with a trust instrument or if there is not any, as prescribed by the Secretary or as prescribed in sections 5 and 6 of the proposal. The Secretary acting as trustee would have all the powers set forth in the deed of trust, including the right of disposal of the land except the mineral interest.

10. The proposal would grant the underlying mineral interest in lands granted under this legislation in trust or in fee to a Native group to the Native Economic Improvement Corporation established by this proposal, together with the right to mine and remove such minerals under lease. The Corporation would hold the minerals in trust for the benefit of each group and would administer and manage the trust in accordance with the applicable provisions of the proposal. If the trust is terminated by reason of dissolution of the Corporation or by subsequent Act of Congress, the Secretary shall convey the minerals in fee to the appropriate Native group.

11. The proposal would establish a single nonprofit statewide Native Economic Improvement Corporation designed to promote the economic opportunities of the Natives and their descendants in Alaska. The Corporation would be organized under the laws of Alaska and shall be composed of directors elected by the Natives in Alaska in a manner that would assure adequate representation of all of the Natives and their descendants. The directors would appoint a manager of the Corporation and he would be responsible to carry out the Corporation's functions in a business-like manner. The Corporation would, among other things, promote

private investment, foster surveys and studies for programs of improvement and development, develop, establish, and operate various business enterprises, invest in business enterprises, make long-term, low-interest loans to Natives in Alaska or Native groups, make grants to the Native groups for publicly sponsored projects which would benefit the entire group and lease on a competitive basis the minerals held in trust by the Corporation. In the case of mineral receipts, the Corporation would have available to it one-half of the total receipts and would distribute the other half to the Native groups having title to the surface lands in which the minerals were developed. The Corporation would not be a Federal instrumentality for any purpose. The Corporation must maintain complete and accurate books and records and would be generally supervised by the Alaska Native Commission established by this proposal.

12. The proposal provides for the establishment by the Secretary of a roster of Native groups and a roll of Natives and their descendants eligible to vote in any election held pursuant to this proposal.

13. The proposal would authorize the Secretary to permit, in accordance with applicable Federal and State laws and with the consent of the administering agency, Natives of Alaska to use public lands in Alaska for 50 years or less exclusively for hunting, fishing, trapping, and berry-picking. In the case of any lands that are patented or leased pursuant to the Alaska Statehood Act or any other public land laws such lands shall contain a reservation to the United States of the right to issue such permit for nonexclusive hunting, fishing, trapping, and berry-picking purposes for up to 50 years from the date of enactment of this proposal.

14. The proposal would grant to the Natives a sum of money which would be established in one of two ways: (1) it could be computed on the basis of \$3,000 for each native in a Native group, except that, in the case of any Tlingit and Haida Natives in the group, their share of the money judgment would be deducted, or (2) the payment would be a lump sum not to exceed \$180 million, whichever is the lesser. The payments would be made into a special account in the Treasury for the benefit of the Native groups and the \$180 million is the maximum amount of the payment. Each year the Secretary would apportion 90 percent of the payment in the account to the Native groups to be used by them in any manner that is authorized by their governing body and is approved by the Alaska Native Commission. The remaining sum in the account would be distributed to the Corporation. These payments would be made over a 5-year period beginning in fiscal year 1971.

15. The proposal would authorize the establishment of an Alaska Native Commission composed of 3 members appointed by the President and the majority of whom shall be residents of Alaska for one year or more preceding appointment. The Commission shall be located within the Department of the Interior and shall have duties as established by this proposal and other duties the Secretary may delegate.

16. The proposal provides for appropriations to carry out the provisions of this legislation.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 15, 1967.

HON. JOHN W. MCCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed herewith is a draft of a proposed bill "To settle the land claims of Alaska Natives, and for other purposes."

We recommend that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The problem of Native land claims in Alaska has been a troublesome one for many decades.

(1) The Act of May 17, 1884 (23 Stat. 24), providing a civil government for the Territory of Alaska, declared that the Natives "shall not be disturbed in the possession of any lands actually in their use and occupation or now claimed by them, but the terms and conditions under which such persons may acquire title to such lands is reserved for future legislation by Congress." A similar provision is contained in the Act of June 6, 1900 (31 Stat. 321), which provided a civil government for Alaska.

(2) In the absence of congressional recognition of aboriginal Native title to particular land in Alaska, the Natives have no ownership interest in the land. They have a right of occupation and use which the United States will protect against intrusion by third parties, but the right of occupation may be terminated by the United States at any time without compensation. This is the same rule of law that has been applied consistently with respect to aboriginal Indian titles in the other States.

(3) When Congress recognizes an aboriginal title, the Natives acquire a compensable ownership interest in the land that is protected by the due-process clause of the Constitution.

(4) The extent to which aboriginal titles in Alaska should be recognized or extinguished is exclusively a policy matter for congressional determination. Congress may convert the aboriginal titles into full ownership, or it may extinguish the title completely, or it may recognize the title to a limited extent.

In the other States, Congress followed the practice of confirming some aboriginal Indian titles and of extinguishing others by treaty or agreement. Then by the Indian Claims Commission Act Congress authorized any Indian tribe to sue the United States for the value of any aboriginal Indian title that was taken before August 13, 1946, without fair compensation. In Alaska, however, Congress has reserved for future legislation the recognition of, or compensation for the taking of, Native titles. The enactment of this bill would be such legislation.

The bill authorizes the Secretary of the Interior to grant to the various groups of Alaska Natives title to the village sites they occupy, and additional lands within the environs of those sites that will contribute significantly to the livelihood of the Natives, but no group may receive more than 50,000 acres. In addition, Natives may be given 25-year exclusive or nonexclusive hunting, fishing, and trapping permits on any Federal lands, subject to State game and fish laws.

Title to the lands granted to a group of Natives may be held in trust for 25 years either by the Secretary, by a trustee selected by the Native group, with the approval of the Secretary, or by the State of Alaska or other trustee selected by the Secretary.

The trustee may manage, subdivide, and dispose of the lands. In the disposal of lands, the right of first refusal must be given to the occupant. Title to a tract that is conveyed to a Native will be held in trust, not subject to taxation, in accordance with the laws that presently apply to Native townsites.

At the end of 25 years, the trust must be liquidated in accordance with the terms of the trust instrument.

A commission is to be appointed by the Secretary to assist the Secretary in carrying out his functions. Both the State and the Natives will be represented. The commission will be responsible for identifying the Native groups, preparing membership rolls, preparing voting rolls, and performing any other functions assigned.

Pending completion of the foregoing procedure, the Secretary may withdraw lands that are subject to grant to the Natives. The lands so withdrawn will not be subject to State selection. The lands not withdrawn will be subject to State selection regardless of Native use and occupancy claims. This procedure should substantially speed up the State selection process.

In recognition of the fact that the Natives claim use and occupancy of areas that are much larger than the areas that may be granted to them, the bill permits the State to initiate an action in the Court of Claims on behalf of all Natives, as a single group, to recover from the United States the value of the additional lands to which the Natives have a valid use and occupancy claim. The value of the lands will be determined as of March 30, 1867, which is the date Alaska was acquired by the United States. Such acquisition would be regarded as an extinguishment of all aboriginal titles. The Tlingit and Haida Indians who have already recovered a judgment against the United States based on use and occupancy will not be allowed to participate in this litigation, and Natives who have claims pending before the Indian Claims Commission will be required to elect between proceeding with their separate claims or dismissing them and joining in the State prosecuted action.

The bill authorizes the appropriation of not to exceed \$12 million to pay the costs involved in making the land conveyances to the Native groups. We are not able to estimate the amount of any judgment that may be recovered in the Court of Claims.

The enactment of legislation to settle the Alaska Native land claims is long overdue, and we urge prompt consideration of the enclosed bill.

The Bureau of the Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.
Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

A BILL To settle the land claims of Alaska Natives, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), is amended to read as follows:

"SEC. 3 (a) The Secretary of the Interior is authorized to grant in trust, subject to valid existing rights, to each tribe, band, clan, village, community, or group of Natives in Alaska, hereinafter referred to as a group of Natives, upon his own initiative and without application, title to the village site or sites now occupied by such group of Natives if not otherwise patented and if not withdrawn for purposes unrelated to Native use or the administration of Native affairs. The Secretary is further authorized, subject to valid existing rights, to grant title to such additional lands within the environs of such site or sites as would contribute significantly, in the judgment of the Secretary, to the livelihood of the community, taking into account such factors as population, economic resources of the group, traditional way of life, and the nature and value of the land proposed to be granted. Such grant may include a grant of title, subject to valid existing rights, to noncontiguous lands being used and occupied by such Natives for burial grounds, airfields, water supply, hunting and fishing camps, and dock or boat-launching sites that are not withdrawn for other purposes: *Provided*, That the provisions of this sentence and the provisions of subsection (b) of this section shall not apply to groups of Natives who are beneficiaries of the judgment recovered by the Tlingit and Haida Indians in Court of Claims Docket No. 47,900. The Secretary is authorized to make any grant subject to easements for public use or benefit. In no case may the grants of land to a single grantee under this section exceed fifty thousand acres.

"(b) In the case of Native villages within whose environs there are not sufficient additional lands in Federal ownership to permit the Secretary to make the grant of additional lands contemplated by subsection (a), the Secretary may convey other lands in lieu thereof but subject to the same conditions and limitations that apply to conveyances of land within the environs of a village.

"(c) For the purposes of this Act the term 'Native' means an Alaskan Indian, Eskimo, or Aleut of at least one-fourth degree Indian, Eskimo, or Aleut blood.

"(d) Beneficiaries of the grants made pursuant to subsection (a) shall be the Natives who comprised the members of the grantee upon the date of the grant, as determined by the Secretary of the Interior, together with any descendants of such members of one-fourth degree of Native blood. The interest of a beneficiary shall not be transferable in any manner, either during his lifetime or upon his death. Whenever a distribution of capital or income of the trust is made to the beneficiaries, the finding of the Secretary as to the qualified recipients shall be final and conclusive.

"(e) Title to land granted pursuant to subsection (a) may be held by the United States in trust, acting through the Secretary of the Interior as trustee, or it may be conveyed by the Secretary of the Interior to a trustee selected by a group of Natives by a majority vote of the members nineteen years of age and older who reside in or near the village. Any trustee selected by the Natives shall be subject to approval by the Secretary. In the event a group of Natives does not select a trustee approved by the Secretary within one year from the date the Secretary notifies said group of his readiness to convey title, the Secretary may convey title to the State of Alaska, with its consent, as trustee, or to any other trustee selected by the Secretary. The term of a trust established pursuant to this section shall not exceed twenty-five years, and when the trust expires it shall be liquidated in accordance with the terms of the trust instrument, or as prescribed by the Secretary of the Interior if there is no trust instrument. Prior to conveyance of a site to a trustee the Secretary shall have its exterior boundaries surveyed. This requirement for survey shall be satisfied without continuous marking of the line, but by establishment of monuments along all the boundaries, except meander courses, by electronic measurement or other means, at intervals of not more than six thousand feet, or by extension of the rectangular system of surveys over the areas claimed. Claims or selections of

surveyed lands shall be in accordance with the plats of survey and those for unsurveyed lands shall, following survey, be so conformed. Land granted pursuant to subsection (a) shall be subject to the applicable laws of the State of Alaska, except that during the period of the trusteeship such land shall not be subject to State or local taxes upon real estate.

"(f) A trustee who receives a conveyance under this section shall be subject to the laws of the State of Alaska governing the execution of trusts, and shall have the powers and duties set forth in the deed of trust, including without limitation subdivision, management, and disposal of the lands, investment and reinvestment of the proceeds, and distribution of income or capital of the trust to the members of the beneficiary. In the disposal of any tract of land the trustee shall give a right of first refusal to the occupant thereof. The title to land conveyed by a trustee to a Native shall be subject to the provisions of section 1 of this Act with respect to lands conveyed to Indians or Eskimos in townsites established under section 11 of the Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as supplemented by the Act of February 26, 1948 (62 Stat. 35; 48 U.S.C. 355(e)).

"(g) So long as the lands are held by the United States in trust, the Secretary of the Interior shall have all the powers to administer the trust which he could confer upon another trustee, but he shall not be subject to the laws of Alaska governing the execution of trusts.

"(h) The Secretary of the Interior or a trustee who receives a conveyance under this section may convey without compensation to private religious, charitable or educational institutions or organizations the land occupied by buildings or facilities owned by them on the date the trust is established, where such buildings or facilities are situated within the boundaries of the land to be granted pursuant to subsection (a).

"(i) In order to assist him in the administration of this section, the Secretary of the Interior may appoint a commission of not to exceed five members, one of whom shall be appointed from nominations submitted by the Governor of Alaska, and one of whom shall be appointed from nominations submitted by Alaska Natives in accordance with procedures prescribed by the Secretary. The Secretary shall prescribe the duties and powers of the commission, the compensation to be paid to its members, provide for payment of commission expenses, including employment of necessary personnel, and provide such other assistance, within existing authorizations, as he deems desirable. The commission's duties may include the preparation of a roster of groups of Natives eligible to receive grants under section 1(a) hereof, rolls of Natives eligible to receive distributions of trust property under section 1(d) hereof, rolls of Natives eligible to be granted a townsite lot under section 1(f) hereof, and rolls of Natives eligible to vote in any election held pursuant to this Act. Before any such roster or roll is finally approved by the Secretary, it shall be published in such manner as he shall find to be practicable and effective, and opportunity shall be given to lodge protests thereto.

"(j) There are authorized to be appropriated not more than \$12 million, to be available until expended, to defray costs of the planning, subdivision, survey, management, and disposal of lands under the provisions of this section, either directly by the Secretary of the Interior or through contract with the appropriate trustee, and to pay the expenses of the commission established under subsection (i).

"(k) At the beginning of each session of Congress the Secretary of the Interior shall report to the chairmen of the House and Senate Committees on Interior and Insular Affairs the grants made under this section and an estimate of the time needed to complete the grants. The reports may be discontinued when the grants are substantially completed."

INTERIM ADMINISTRATION UNDER PUBLIC LAND LAWS

SEC. 2. (a) The Secretary of the Interior may, subject to valid existing rights, withdraw from all forms of appropriation under any of the public land laws, including without limitation selection by the State of Alaska under the Statehood Act of July 1, 1958 (72 Stat. 339), any lands that are subject to conveyance to a group of Natives pursuant to section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act. A State selection of lands that are withdrawn shall not be approved, regardless of whether the selection was initiated before or after the withdrawal.

(b) A Native claim based on use and occupancy of unwithdrawn land shall not be the basis for the rejection of State selections or other applications or claims under the public land laws.

(c) Either before withdrawing lands under this section or before granting a patent pursuant to section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act, the Secretary of the Interior shall consult the Secretary of Defense with respect to the effect of the withdrawal or grant on the security of the United States.

RESERVATIONS AND RESERVES

SEC. 3. (a) The areas of lands and waters heretofore reserved and set aside for the use of the Native inhabitants of Akutan, Diomedes, Karluk, Unalakleet, Venetie, and Wales shall be held in trust by the United States for the benefit of the Native inhabitants thereof for twenty-five years after the date of this Act, at which time the trust shall be liquidated in the manner provided for the liquidation of trusts under section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act. During the term of the trust the Secretary of the Interior shall have all of the powers granted to a trustee under section 3 of said 1926 Act, as amended. To the extent such areas are smaller than the areas that could be conveyed to them under the terms of section 3 of said 1926 Act, as amended, and lands in that immediate vicinity are available for grants under such Act, additional lands may be granted by the Secretary of the Interior under that section, but only if warranted by the economic needs of the Native inhabitants. Criteria applicable to these situations shall be developed by the commission authorized by section 3(i) of said 1926 Act, as amended, and shall be made available to the Secretary as advisory recommendations.

(b) Lands held in trust pursuant to this section shall be subject to the applicable laws of the State of Alaska, except that during the period of trusteeship such land shall not be subject to State or local taxes on real estate.

(c) The various reserves set aside by Executive order or Secretarial order for Native use or for administration of Native affairs, including those created under authority of the Act of May 31, 1938 (52 Stat. 593), shall be revoked pro tanto by the grant of title pursuant to section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act.

(d) The trusts created by this section shall be subject to the right of the Secretary of the Interior to issue and enforce such regulations as he deems desirable for the protection of migratory birds that are protected by treaty to which the United States is a party.

(e) The Secretary of the Interior may, with the concurrence of the agency administering the land, issue to Natives exclusive or nonexclusive permits, for twenty-five years or less, to use for hunting, fishing, and trapping purposes any lands in Alaska that are owned by the United States without thereby acquiring any privileges other than those stated in the permits. Such permits may contain conditions deemed desirable by the Secretary, and shall be subject to applicable State game and fish laws. Any patents or leases hereafter issued in such areas pursuant to the Alaska Statehood Act, or the public land, mining, and mineral leasing laws, may contain a reservation to the United States of the right to issue such permits and to renew them for an additional term of not to exceed twenty-five years in the discretion of the Secretary.

JURISDICTION OF THE UNITED STATES COURT OF CLAIMS

SEC. 4. (a) The United States Court of Claims shall have jurisdiction to hear and adjudicate a single claim filed within six years from the date of this Act by the Attorney General of the State of Alaska on behalf of all Natives of Alaska based on the taking by the United States of any land to which any group of such Natives claims aboriginal title by reason of use or occupancy, other than lands subject to grant under section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act. If the Court determines that as of March 30, 1867, any group of Natives had aboriginal title through use or occupancy of any such lands, the aboriginal title shall be regarded as taken as of that date, and the Court shall enter judgment for a sum equal to the market value of such lands upon that date without interest, and less offsets, counterclaims, and demands that would be allowable under section 2 of the Indian Claims Commission Act of August 13, 1946 (60 Stat. 1050; 25 U.S.C. 70(a)). The judgment shall be in favor of the Natives of Alaska without regard to group affiliations. A claim of aboriginal title to a particular area shall not be defeated because the land

may have been occupied or used by more than one identifiable group of Natives of Alaska, but the claimants must show that there were living upon the date of this Act Natives of Alaska who are descendants of the identifiable group through whom aboriginal title to any area is sought to be established. The provisions of this section shall not apply to any lands in southeastern Alaska for which a money judgment has been or may hereafter be awarded by the Court of Claims in the case of *The Tlingit and Haida Indians v. The United States*, No. 47,900; or to any lands that are set aside and administered for the benefit of Natives; or to any lands that are subject to an aboriginal title claim adjudicated by the Indian Claims Commission, or pending before the Indian Claims Commission six months after the date of this Act. Prior to the expiration of such six months the plaintiffs may cause their claim to be dismissed by the Indian Claims Commission and the lands involved may then be included in the claim filed pursuant to this section.

(b) As used in this section, the term "Natives of Alaska" means all Alaskan Indians, Eskimos, or Aleuts of at least one-fourth degree Indian, Eskimo, or Aleut blood living upon the date of this Act, but the distribution of any judgment or award under this section shall be limited to Natives of Alaska living upon the date the Congress appropriates funds to pay any judgment that may be entered against the United States. It shall not include Natives who have shared or will share in any award in the *Tlingit* claim or other claims adjudicated by the Indian Claims Commission, or the Metlakatla Indians of the Annette Island Reservation.

(c) The Court shall award to the State of Alaska the reasonable costs and expenses, including counsel fees, incurred in the preparation of claims authorized to be filed by this section.

SEC. 5. Nothing in this Act shall affect the right of Natives as citizens to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended (48 U.S.C. 357), or the provisions of other applicable statutes.

SEC. 6. The enactment of this legislation shall be in full and complete satisfaction of all claims of tribes, bands, clans, villages, communities, and groups of Natives against the United States based upon alleged aboriginal right, title, use, or occupancy, excepting only claims now pending in the Indian Claims Commission or the Court of Claims by previous authorization of the Congress.

SEC. 7. Lands granted pursuant to section 3 of the Act of May 25, 1926 (44 Stat. 629; 48 U.S.C. 355(c)), as amended by section 1 of this Act, shall, so long as they remain not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented.

Mr. HALEY. The Chair will make this statement: We have a good many witnesses. They have come a long way. We don't want to cut off anyone, but our time is going to be limited. I would appreciate it if witnesses would keep their statements as brief as possible and yet thoroughly explain their positions, so that we might move along and attempt to hear all of the witnesses we possibly can, this morning.

At this time, the Chair recognizes the gentleman from Alaska, Mr. Pollock.

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

Mr. POLLOCK. Mr. Chairman, I will be very brief. I have prepared a statement. I do not want to take the time allocated this morning because I do want the people from Alaska who have traveled so far to have time to render their testimony.

I would ask unanimous consent that my statement be included in the record and ask also that I be given the opportunity to file a supplemental statement after the hearing is over.

Mr. ASPINALL. Reserving the right to object, I notice in your statement you ask unanimous consent that some document prepared by Miss Julia Sayles be included as part of this hearing record.

Mr. POLLOCK. Yes, sir.

Mr. ASPINALL. How big is that document?

Mr. POLLOCK. It is quite a heavy document.

Mr. ASPINALL. I would suggest to my friend that he make it a part of the file and not clutter up the record.

Mr. POLLOCK. Whatever you suggest, Mr. Chairman.

(The prepared statement submitted by Mr. Pollock follows:)

STATEMENT OF HON. HOWARD W. POLLOCK, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ALASKA

Mr. Chairman and fellow members of the Interior and Insular Affairs Committee, I want to express my sincere appreciation for all your efforts to hold this special hearing so that Alaskans may express their views on the pending bills to resolve the complex Alaska native land claims issue.

With your permission, I would like to only briefly highlight the genesis of the Alaskan natives land ownership problem we are considering today and then file for the record at a later date a detailed statement. Some time ago I asked the Library of Congress to review the history of Alaska with specific reference to the nature of the Alaskan natives claims. I ask unanimous consent that this research compilation prepared by Miss Julia Sayles of the Library of Congress be included as part of this hearing record.

The original issue of native land ownership can be traced back to documents as early as 1766, relating to the Russian administration of what is now Alaska. In general, early occupation by the Russians was limited only to the extent necessary to carry on trade with the natives. Most of this activity was concentrated in the Aleutian chain and some of the coastal areas of North American settlement. Land ownership was never recognized as a problem at that time, since occupation by the traders was considered to be of a temporary nature.

In the Treaty of Cession of Russian America, now Alaska, to the United States, ratified by the U.S. Senate on May 20, 1867, the question of the status and rights of the Alaskan native was handled in the following manner:

"The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within 3 years; but if they should prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall be admitted to the employment of all the rights, advantages, and immunities of the citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country".

The next point in which native land ownership was considered is found in the act of 1884 which created a civil government for Alaska (23 Stat. 24). That law stated in part:

"The Indians or other persons in said district 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 is reserved for future legislation by Congress."

Congress has never come any closer to identifying or solving the question than this brief and totally unsatisfactory sentence. The next real opportunity was also lost at the time the statehood enabling legislation was enacted. The Alaska Statehood Act of 1958 provided that the new State and its people:

"Agreed and declared that they forever disclaimed all right and title to any lands or other property—the right 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; That all such lands or other property belonging to the United States or which may belong to said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed, or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation."

The specific rights were not then nor since defined, and their status remained in limbo. Thus, until now Congress has really avoided a confrontation with the complex and difficult issue.

Laws providing for native allotments and townsites have not met the problem head on. Court decisions have left much confusion. Nevertheless, it seems to be generally agreed, that without special enabling legislation by Congress, the Alaskan natives cannot sue and recover in the courts for lands taken from them, nor can they enforce claims for possession and control of the land against the Government or third parties. Specific enabling legislation in this regard was passed in 1935 for the Tlingit and Haida Indian claims in southeastern Alaska. Just 2 days ago—33 years after passage of this law—the President signed a bill to pay this claim.

I'll never forget the poignant statement one of our venerable old native chiefs delivered during the Senate hearings on these native land claims held in Anchorage, Alaska, last February. In his broken English, the eloquence of his message came through dramatically clear and unmistakable. He asked: "Has it ever occurred to you that maybe when you bought Aalska from the Russians, you bought stolen property?"

This brief narration of aboriginal claims in Alaska is enough, I believe, to show the tremendous failure on the part of the Government thus far to resolve this most difficult problem involving the Alaskan natives. For 92 years the Federal Government was the sole authority in this great State, yet nothing was done. Even at statehood the Congress retained, as it always has, the prime responsibility for dealing with the American Indian and the Alaskan native; yet to this date that responsibility has not been met, and nothing has been accomplished. Now, something must be done. Congress must act. This would seem to be an obvious statement, yet it was just as pressing and obvious in the year 1958, and in 1884, and in all the other years, but nothing was done.

Having now agreed after a century that some solution must be found, it is certain that finding the optimum answer will not be easy. Since the aboriginal claims began to be pressed in earnest in 1966, great progress has been made. Fortunately too, we have strewn behind us the myriad solutions to similar problems in other areas, including mistakes I trust we will not repeat here.

I can think of no more appropriate way to fully demonstrate the urgent need for action on this vital issue than by introducing the strong and dynamic leaders of Alaska, our distinguished Governor, the Honorable Walter J. Hickel, and representatives of the various Alaskan native groups. In addition to the Governor, the Alaskans in attendance are:

ALASKA FEDERATION OF NATIVES

Mr. Emil Notti, president; Mr. Don Wright, president, Cook Inlet Native Association; Mr. John Borbridge, president, Central Council of Tlingit & Haida Indians of Alaska; State Representative Willie Hensley; Mr. Cliff Groh, attorney; Mr. Barry Jackson, attorney.

THE ALEUT LEAGUE

Mr. Flore Lekanof, executive director, Alaska State community action program; Mr. Roger Connor, attorney.

Other individuals who will be addressing the committee are:

The Honorable Ernest Gruening, U.S. Senator, Alaska; Mrs. Laura Bergt, member of Governor's task force on native land claims; Mr. Charles Edwardson, speaking as an individual.

In closing, I would like to say that without question this is one of the most difficult problems to face the people of the State of Alaska in many years, and perhaps the most difficult of the entire century of our existence. First as a district, then as a territory, and now as a State under the American flag. It became all the more complicated when the Secretary of Interior elected to impose a freeze on all public land transactions about the time Governor Hickel took office as chief executive of Alaska. It seems incredible that so much time has passed without a solution to this most basic and unresolved conflict. We all know that such things take time, but a century is really far too long for any logical rationalization. It devolves upon us to finally resolve this complex issue somehow.

(The supplemental statement to be supplied by Mr. Pollock, above referred to, follows:)

SUPPLEMENTAL STATEMENT OF HON. HOWARD W. POLLOCK,
THE CONGRESSMAN FOR ALASKA

The excellent testimony today delivered by the Governor, by the Alaska native leaders and their legal counsel, illustrates the complex issues confronting the Congress on this vital issue of resolving the aboriginal native land claims in Alaska.

As a result of this hearing, several issues yet to be resolved came into clearer focus, which is preliminary and basic as a foundation upon which to build an equitable and just settlement.

First, the Alaskan natives—Aleuts, Eskimo, and Indian alike—claim an "Indian Title" by reason of original aboriginal occupancy and use. The extent of that title has never been determined, but the courts have given credence and validity to its existence.

Second, Congress has historically reserved to itself the prerogative and right to determine the exact extent of the aboriginal title to lands in Alaska, and the means to legally define, recognize, record, and convey this title.

Third, the area occupied by Alaskan natives under aboriginal title encompasses almost all of Alaska, an area about 1/6 of the total land mass of the United States. A court of claims or Indian claims court solution is inadequate because traditionally it gives only money judgments for confiscated lands, whereas, in much of the area in dispute there has not been a taking, as such. The native community seeks not money alone, but land also, some in fee simple title, some in surface rights to use and occupy. They seek clarification and definition of their rights and title, and are willing to support an equitable resolution to bring this complex situation to a close at the earliest possible time, even though this involves a compromise of their position and a waiver of any further aboriginal land claims in Alaska. This is in no manner a withdrawal from the firm conviction that the land belonging exclusively to them originally; that except for some limited coastal areas which were occupied by the Russian fur traders, there was no use and occupancy or actual sovereign taking by the Russians; and there was no exercise of dominion and control of the vast interior or northern coastal areas by the Russians. It is their further belief that whatever rights in land the natives had one hundred years ago, they still have, because the Treaty of Sessions (purchase of Alaska by the United States from Imperial Russia) preserved and protected their rights and interest in the land mass of the subcontinent of Alaska, and no act of Congress has since extinguished any such rights and interest. It only awaits definition.

Further, it is the firm conviction of the natives that a political (legislative) resolution will be accomplished much sooner, and will result in a much more equitable solution than could be accomplished by generations of litigation.

Fourth, the land freeze or moratorium on state land selection under the terms of the 1958 statehood enabling legislation has created serious financial problems for the state and its citizens. The financial problem will become more severe as the land freeze continues. At the same time, the freeze is probably the only equitable way to assure that Alaskan natives will be afforded an opportunity to acquire title to whatever lands are deemed appropriate by Congress. In this connection, it would be fair to point out that many of the larger federal land withdrawals have been made without consideration of the fact that the Alaskan natives do now—and have historically—occupied areas within these federal withdrawals. It would seem that the ultimate settlement must consider conveyance of title to some land areas contiguous to their villages, the same as land-ownership which might be appropriate for other Alaskan natives in and around their villages.

Fifth, the Alaska natives have several varying and distinguished characteristics which will need consideration in any overall legislation or adjudication. The situation we are confronted with would be similar to that which would have resulted if the Congress originally had decided to settle all Indian rights west of the Mississippi River in one treaty. It is not hard to envision the difficulty in reaching terms which would equally satisfy the Sioux, Zuni, Utes, Yakima, Cheyennes, Mandan, and Paiute. This, to a very large degree, is the problem we face in resolving the Alaskan native land claims.

Sixth, the right of self-determination in handling any monies and land as a result of settling the Alaskan native land claims should be vested with the Alaskan natives. If it is deemed necessary by Congress to have oversight responsibilities vested with the Department of the Interior, it would appear appropriate

to have that responsibility reside with the Secretary rather than the Bureau of Indian Affairs.

The eloquence of presentation before the Interior and Insular Affairs Committee by the native leaders was a tribute to the dynamic and capable new leadership which is emerging within the entire native community in Alaska. Every Alaskan should be proud of the performance of these dedicated individuals at this the first hearing of its kind ever held in Washington on the resolution of the Alaska native land claims problem.

Mr. POLLOCK. Mr. Chairman, just briefly, I would introduce several of the members who are here and would ask that they just stand up briefly and then would hope that the Governor would have an opportunity to testify firsthand.

Mr. Chairman, without further ado, I am going to relinquish my time and ask that the witnesses now be heard. I don't see Senator Gruening. I wonder if we could now have the Governor make his statement.

Mr. HALEY. We also have an executive communication which, without objection, will be made a part of the record along with the bills.

May the Chair first state that, coming from the most southern part of the United States, I welcome you people from the most northern part of the United States and say to you that you have a very fine Representative, Mr. Pollock, who is a member of our committee and is doing a good job here for you. About the only trouble is, or about the only fault I could find is, that he comes from the other side of the aisle, so to speak, and belongs to another party which I will not mention; but if you must send Republicans down here, I suppose Mr. Pollock is about as good as you will be able to find in Alaska.

Mr. POLLOCK. Thank you, Mr. Chairman. I notice Senator Gruening just came in.

Mr. McCLURE. Mr. Chairman, would the gentleman yield?

Mr. HALEY. I yield.

Mr. McCLURE. I would just like to add to what the chairman has said. The very fact that these hearings are being held is a mark of the vigor and determination with which our colleague, the gentleman from Alaska, Mr. Pollock, has approached this problem and as the chairman well knows, he has been very diligent in pursuing this matter and getting it to the hearing stage here. I think that the people from Alaska should know of the amount of work that he has done and the dedication he has had in getting a hearing and having you people appear before this committee. I think he is to be very highly commended for the approach that he has made and the kind of work that he has done for the people that he represents.

Mr. POLLOCK. I thank the gentleman from Idaho, Mr. Chairman.

Mr. HALEY. I agree with the gentleman from Idaho and as has been stated, I am glad to have these hearings this morning to get the gentleman from Alaska off my back.

Mr. BERRY. Mr. Chairman, as one representing neither those farthest north nor farthest south, but the exact center of the United States, which now is in my district since Alaska came into the Union, I want to welcome you folks from the northern country and would join in what my colleagues have said regarding the work Howard has been doing for you.

Mr. POLLOCK. I thank the gentleman.

Senator Gruening is in, Mr. Chairman.

Mr. HALEY. Senator, we are glad to welcome you here this morning. We have many fine people here from your small State. We are glad to have you here. We hope that we can hear all of the witnesses. I have asked them to be as brief as they possibly can; but you have the floor and we are glad to have you.

**STATEMENT OF HON. ERNEST GRUENING, A U.S. SENATOR FROM
THE STATE OF ALASKA**

Senator GRUENING. Thank you, Mr. Chairman and members of the committee. I did not intend to make any statement.

I think my views on this legislation are very well known. I think this is legislation that is long overdue. The promise that is now hopefully going to be fulfilled dates from the organic act of 1884 which stated specifically that the natives and others would not be disturbed in the possession of the lands held or claimed by them and that the disposition of this matter was left to Congress.

Well, we are getting close to a century after that and the promise has not yet been fulfilled. I am very hopeful that it will be fulfilled in the very near future.

I know of no more important issue confronting the people of Alaska than this. The condition of the natives is one of poverty, unemployment, inadequate housing, inadequate conditions of living and it must be rectified. There will be some question as to whether the latest bill sent up by the Interior Department is a satisfactory one. I much preferred the previous bill which was drafted by the task force appointed by Governor Hickel, but the disposition of this legislation, of course, rests with the members of the two committees in the House and the Senate and of the Congress. I am hopeful action will be speedy, that it will be generous and that we may conclude this issue early in the next Congress.

It is obviously too late for us to do it in this session, but these hearings should be very helpful in laying the groundwork for the action which I trust will be taken just as soon as Congress reconvenes in January. As a Member of the Senate Committee on Interior and Insular Affairs, I will be in a sense a judge, a listener, and I certainly want to hear all the pros and cons of this particular legislation. It has some obvious defects. Those of us who have followed the relationship of the Bureau of Indian Affairs with the native people feel that it is time they were given a greater freedom and independence from the Bureau's control which has been exercised now for nearly a century and has not resulted in the progress we feel should have been made.

I think this is one of the items that will be certainly brought to the attention of this committee.

If I may be a listener from now on, I will appreciate it.

Mr. HALEY. Thank you very much.

Are there any questions?

Mr. ASPINALL. I want to welcome our personal friend and coworker, Senator Gruening, before this committee.

May I say, Senator, I believe that is the most effective presentation that has been made by a Member of the other body before this committee for a long time.

Mr. HALEY. Thank you very much, Senator. We are glad to have you.

Mr. POLLOCK. I wonder now if Governor Hickel might address the committee, Mr. Chairman.

Mr. HALEY. Governor, we are glad to have you with us today. I just wonder, looking over the crowd, who's keeping the store.

STATEMENT OF HON. WALTER J. HICKEL, GOVERNOR OF THE STATE OF ALASKA

Governor HICKEL. We have it well organized.

Mr. Chairman and members of the subcommittee, I would especially like to thank Chairman Haley, Chairman Aspinall, and others who moved with such expediency to hold these hearings at my request. I know that you did this, having other pressing matters before you, especially in this year before we adjourn Congress and face the coming election.

Mr. ASPINALL. Mr. Chairman, I don't want to interrupt the Governor, because we are very glad to have him here and we are glad that he requested this; but to be perfectly frank with you, the hearings were set at the request of your Congressman, Mr. Pollock, and your Senators Bob Bartlett and Ernest Gruening. We are glad to say it coordinated with your activities and wishes but here is where the prompting came from.

Governor HICKEL. Very well.

Thank you, Howard, and Senators.

I would like to express my concern today and I might add that I have my remarks prepared and you will get copies of them but I will read them and it will take about 12 minutes. I would like to say that settlement of land claims for the natives of Alaska are long past due. As Senator Gruening said, it has been 101 years since the purchase of Alaska from Russia. I think in that 100 years there has been more than an injustice done.

The explicit deferral of this settlement began with the treaty of cession in 1867 and was reemphasized in the Alaska Statehood Act.

The report of the House of Representatives on the statehood bill by a member of the Committee on Interior and Insular Affairs stated the following with reference to the disclaimer clause in the Statehood Act:

"Finally the section provides that no attempt will be made to deal with the legal merits of the indigenous rights but to leave the matter in status quo for either future legislative action or judicial determination."

The U.S. Supreme Court, in 1955, in *Tee-Hit Ton Indians v. United States*, placed the sole responsibility for the resolution of the claims of the natives of Alaska on the Congress of the United States.

I appear before you today to request that immediate assumption of responsibility.

There is an obligation of history, and this forum—the Congress of the United States—has the sole authority to exercise that obligation.

We do not live at a time when we can accept the status quo of 1867.

The matter we discuss today is land—land of the United States—land of the State of Alaska—land of the natives of Alaska.

The basic concern of the Alaska statehood hearings was these same lands.

The bills which we discuss today are efforts to carry out the provisions and the spirit of 101 years of history.

The present and the future of the State of Alaska is tied to land. The U.S. Congress recognized that fact in the Statehood Act when it granted to the State 103,350,000 acres of federally owned land. The land obligation of the Congress to the natives of Alaska still has not been met.

The urgency of a settlement involves all Alaskans, native and non-native, and all Americans.

The reason for this urgency is the "land freeze" in the State of Alaska.

The history of the "freeze" is this. In 1961, the first native claims were filed in the State of Alaska. There were four of these protests.

In each of these cases, the regional offices of the Bureau of Land Management denied these claims.

There was then an appeal to the Secretary of the Interior. There has not yet been a decision of the Secretary of the Interior on the validity of these protests.

However, there has been since that time native claims which blanket the State and a refusal by the Secretary of the Interior to issue patent to the State of Alaska for lands granted to the State under the Statehood Act.

At the time of the imposition of the "freeze," the State had applied for 17.8 million acres, but had been granted patent to only 5.2 million acres and tentative approval to 7.9 million acres.

Of the 103 million acres to which Alaska is entitled under the Statehood Act, Alaska has patent to 5 million acres.

This is statehood at 5 percent.

Further, the Secretary of the Interior has cut off Federal mineral leases. The State of Alaska is entitled to 90 percent of the royalties from most of these leases.

Under the "land freeze," neither the State nor the Federal Government receives anything for these denied applications.

The "land freeze" has resulted in the loss of direct revenues to the State from pending mineral applications in an amount of a half million dollars.

These are applications that are already on file.

In addition, we have conservatively estimated that another \$600,000 to \$700,000 has been lost from mineral leasing revenues on lands where there is good potential for mineral exploration.

The latter amount has undoubtedly changed in the past few weeks with the encouraging results of Alaska's newest and highly promising oil and gas province—the Arctic north slope.

A tremendous upsurge in leasing activity has occurred in the Fairbanks land office of the Bureau of Land Management on unleased lands of the north slope.

Last week alone, applications were received covering over 150,000 acres. Applications have been accepted but actual issuance of leases and resulting income is withheld until there is a settlement of the native claims which cover these areas.

This is an economic paralysis which affects all of us.

There is no revenue for Federal or State programs to benefit the same natives who are the point of the land freeze.

The development of Alaska is severely restricted by this measure. This is a concern for all Americans.

The land mass of Alaska represents the farthest thrust of the United States of America out across the Pacific into Asia and upward toward the pole at the crossroad of the Northern Hemisphere. There is no one to deny its significance in the strategy of geography.

Further, the freeze halts the development of mineral production which is necessary to maintain the economic leadership of the Western World.

It is vital to all of us that the economics of Alaska be placed on a firm and solid basis.

The State of Alaska has assumed its responsibility toward the natives of Alaska in this way.

First, my administration organized a task force to come up with a proposal of settlement of the Alaska native claims.

This task force was composed of native leaders, their attorneys, Representatives of the State administration, and a representative of the Department of the Interior.

The objective of the task force was a bill which would reconcile the interests of the Department of the Interior, the State of Alaska, and the natives of Alaska.

This bill was introduced in the Senate as S. 2906 and in the House of Representatives as H.R. 15049.

Second, my administration sponsored and secured passage at the last session of the State legislature of an Alaska native claims State settlement act. It provides for the grant of \$50 million to the natives of Alaska if the present land freeze imposed by the Department of the Interior is lifted before the 10th of October of this year.

The Congress of the United States should now exercise its responsibility toward the natives of Alaska. The State of Alaska, as the sovereign State which represents the natives of Alaska and all other Alaskans, endorses this main basis of settlement:

First, a minimum monetary settlement in the sum of \$500 million, with the condition that at least half of that sum be used for capital investment in the village regions.

Second, grants of land in fee simple to each native group for its historic village site and whatever land contiguous to that village site which may be necessary for the future economic and social development of the community.

Third, nonexclusive aboriginal rights of natives for hunting and fishing on lands in Alaska owned by the United States.

Fourth, an outright grant of immediate benefits to the Alaskan natives without the restrictive trusteeship of the Department of the Interior.

Let me explain to you in more detail several of the principles of the land settlement which I have just outlined for you.

With respect to the monetary settlement of \$500 million, I would like to point out that the people of the State of Alaska alone have offered \$50 million for this settlement. I think it is a conservative statement to say that the rest of the United States, and this is a settlement

which concerns all Americans, has the obligation to settle this matter for a sum which is but 10 times the amount of the State settlement.

The recognized judicial basis for the taking of land is its fair market value, and I doubt whether the minimum \$500 million settlement satisfies that criteria.

As a sidenote, I might say that \$1 billion is perhaps inadequate to satisfy this criteria.

Further, the requirement that half of this settlement figure be re-invested in capital improvements means that this will help to lead to the economic development of a vast region of the United States to the benefit of the natives and of all Americans.

With respect to the land grant settlement proposal, it is imperative that these grants do not abridge the 103-million-acre grant of land to the State of Alaska under the Statehood Act.

Therefore, in light of the geography of Alaska, great stretches of which are uninhabitable, the Federal Government must release from withdrawal that part of the 112 million acres of Federal reserve land in Alaska which is necessary to satisfy the native land settlement and insure the State of Alaska 103 million usable acres for selection.

The responsibility for settling the native land claims problem is primarily a Federal one—and it is therefore only fitting that Federal reserve lands be used to help in this settlement.

This is, I believe, a fair basis of settlement for the Alaskan natives. It is also a solution fundamental to the growth and progress of Alaska.

We envision and are moving forward toward the development of the vast hinterlands in the interior and northern regions of Alaska.

The inhabitants of these regions are natives.

The development and production from these areas will be through the utilization of natural resources. This will not only greatly enhance the standard of living for Alaskan natives, but will also provide this Nation with the necessary self-sufficiency of raw materials which are vital for national defense and continued prominence among the industrial powers of the world.

The development of interior and arctic Alaska will insure that future generations of native people can rightfully assume their role in the modern economy.

There is the challenge of Alaska before you today. There is little time for delay. The resolution of the native land claims is one of the first moves forward. The State of Alaska awaits your decision.

Gentlemen, I will answer any questions, if you have any.

Mr. HALEY. Thank you very much, Governor, for your statement. The gentleman from Colorado.

Mr. ASPINALL. Governor, we are glad to have your statement and we will be glad to hear from other witnesses.

This matter was first brought to my attention directly in 1951 before most of you were even thinking about what was involved. It was on my first trip to Alaska when we considered this matter.

As I understand it, what has happened since then has been that the Alaskans desired statehood first. We took upon ourselves the obligation of giving the Alaska people what they wanted. There are those on this committee at the present time who had something to say about that.

I would like to ask you this question, Governor: This is a hypothetical question but I think it places the U.S. Government in a little bit better position than some of you want to have it placed.

What would have happened to these claims of the natives if Russia had not transferred its title to the United States?

Governor HICKEL. What would have happened to the patents?

Mr. ASPINALL. What would have happened to the claims of the natives that are now presenting claims to the Federal Government? What would have happened to the claims if Russia had seen fit to keep ownership of that area?

Governor HICKEL. I would have to go over to Moscow to answer that question. Not being facetious, I don't know what would have happened.

Mr. ASPINALL. You would have to go further back than that. A trip to Moscow wouldn't do a bit of good at the present time. All you have to do is look at the proposition. Don't point to the Federal Government as a bad boy in this operation. We gave Alaska what she wanted first and now we find a problem in which all of us are interested and are desirous of finding an answer.

Now, to make the record clear, Alaska has received fair treatment. In the case of the other States, some received one section out of each township for various purposes, mostly school purposes. Some received two sections. Some received four sections. Four sections, which is one-ninth of the total land area, is all the Federal Government ever gave to any State before statehood was granted, or at the time statehood was granted.

Now, Alaska, if I understand correctly, has at the present time a land area of 365,481,600 acres. In our bill we provided that the government of Alaska, the State, would have 103 million acres. In other words, Congress was not parsimonious when it came to the granting of statehood. One-third instead of one-ninth, or one-thirty-sixth. That doesn't mean that we shouldn't clear up this question of native claims, but it does mean that in some respects some of the figures which are quoted by the friends of Alaska are just a little bit unreasonable.

When you talk about Uncle Sam owing \$1 billion liability here, or \$500 million liability under these circumstances, we get just a little bit out of line, in my opinion. That is all I wish to say because you have made a good statement as far as Alaska is concerned and your statement speaks for itself. It doesn't need any questioning on my part.

Before the State of Alaska can get 103 million acres of land and before you begin to proceed as you have a right to proceed, we must take care of this problem, but let's keep it within bounds.

That is all, Mr. Chairman.

Mr. HALEY. The gentleman from Pennsylvania.

Mr. SAYLOR. Governor, it is good to see you before the committee. I would like to commend you on your appearance. I don't know where Secretary Seward is today but his investment of \$7,200,000 for the entire State of Alaska 102 years ago, would I'm afraid, cause him to shudder if he thought we were having a bill presented to us by the Governor of Alaska for \$1 billion to settle the native land claims of the people of Alaska.

I don't know whether the people of the 49th State of the Union have seen the financial statements of the Federal Treasury lately, but all I can tell you is that they are in pretty bad shape. I don't know where you are going to get \$500 million or \$1 billion to take care of this matter.

My mind goes back to the first time I heard about this from a former member of this committee, Mr. Wesley D'Ewart, of Montana. I am sure Mr. D'Ewart, when he talked to me about it shortly after I got on this committee, never dreamed we would have presented to us, figures of this nature. Of course, I don't think he ever dreamed we would have the Indian Claims Commission giving awards such as have been given to some of the Indian tribes around this country either.

Governor, I believe it is correct that we changed the law before you became a State. That law had to do with care of the mentally incompetent. It seems that for about 90 years everybody who was mentally incompetent had to be treated like a criminal up there, arrested and kept in jail and then transported down to Washington for treatment. I happened to have been one of those who took a good bit of abuse as a member of this committee because we tried to give the people of Alaska the right to take care of their old, mentally ill persons.

If my memory serves me correctly, I think we gave the State of Alaska 1 million acres to help them solve this problem. All I can tell you is, I was accused and I know other members of this committee were accused of attempting to set up an area in Alaska, put a fence around 1 million acres to put all the crackpots in, not only Alaska, but everybody in this country we didn't like. It was said we were going to build a big concentration camp up there in Alaska.

Now, you haven't built any concentration camp up there, have you, for the care of the mentally indigent?

Governor HICKEL. No.

Mr. SAYLOR. As a matter of record, what progress have you made in this field in trying to take care of persons in the State who suffer mental disorder?

Governor HICKEL. We have one large mental institution in the Anchorage area. Within the last year or two we have brought back most of the patients that we had been treating outside, in Portland and other areas, and we have made progress. The land given to us was of great benefit and so we are going forward and I think in a very progressive and enlightened way in the care of mental patients.

Mr. SAYLOR. One of the things I would like to ask you about is that you say here that the Federal Government has to give up its withdrawals—

Governor HICKEL. I would like to explain that.

Mr. SAYLOR. Would you explain that for us?

Governor HICKEL. Yes.

As you know the statehood bill gave us the 103 million acres, the right to select that and at the time of the hearings on that bill I remember well, as a matter of record then, now the Senator Bartlett, then the delegate, stated the difficulty of selecting these 103 million acres due to the vastness and the amount of Federal withdrawals at that time.

Now, if we are going to get the 103 million acres that we are entitled to under the statehood act for all the people of Alaska and give the native people their settlement that they think they need in the way of land, they will obviously have to come out of the federally withdrawn areas because the amount of usable land of which the Federal Government has withdrawn approximately 112 million acres, and we have the right for 103 million acres, that obviously some of that acreage they want for their settlement would have to come out of the federally withdrawn lands.

Mr. SAYLOR. Now, the federally withdrawn lands are in fairly large blocks, is that not correct?

Governor HICKEL. Yes, in all categories. This includes parks and everything else.

Mr. SAYLOR. Now, the first real big withdrawal that took place in Alaska is the withdrawal up in the northern area. The Navy withdrawal. Is that not correct?

Governor HICKEL. That is correct.

Mr. SAYLOR. The second withdrawal that took place in Alaska of a large size was for the establishment of the two national parks. The third withdrawal of any size is the Arctic Wildlife Range; is that correct?

Governor HICKEL. Yes.

Mr. SAYLOR. These are the three big ones. Are there any others?

Governor HICKEL. The Federal forest reserves and then, of course, you have—you have the wildlife, you have PET IV, the parks, the Lewis Range.

Mr. SAYLOR. The Kenai Peninsula.

Governor HICKEL. The Moose Range; I forgot about that one.

Mr. SAYLOR. Now, Governor, let's look at them. The first withdrawal is the withdrawal for the Navy—oil. Is that not correct?

Governor HICKEL. That is correct.

Mr. SAYLOR. There has been some exploration in that area by the military and by certain other companies for the military?

Governor HICKEL. That is correct.

Mr. SAYLOR. Now, one of the real important features of maintaining this area is for this country's military posture and its oil supply. Now, do you want to get rid of part of that?

Governor HICKEL. I think there have been some requests in Congress this session to give up PET IV. Perhaps Senator Gruening can help me, but I think the native itself was willing to relinquish it. Is this right, Senator?

Mr. ASPINALL. The Chair objects to this procedure. This is not in accordance with our rules.

Mr. SAYLOR. The second withdrawal was our national parks. Do you want to cut down on the size of the national parks up there?

Governor HICKEL. Maybe not necessarily the national parks. We think there could be multiple use of the lands of some of the parks that have taken such vast areas.

Mr. SAYLOR. Now, we don't have that type of system. In other words, the act of 1916 which established the national park system says that when Congress establishes a national park the land will be set aside for a special use and we haven't allowed multiple use in our national parks. It becomes a little difficult to try to do it in Alaska.

Governor HICKEL. I realize that, but the parks there cover such vast areas. I think it is the size of Alaska and the vast withdrawals that make up the real problem.

Take the Kenai Moose Range. One million acres for the Kenai Moose. That is more acres than some of the people have down here. I think it could be smaller.

Mr. SAYLOR. One of the great resources of your State is your great hunting and fishing, which draws a good bit of revenue into your State. Is that not right?

Governor HICKEL. That is true. I can't see any reason why they couldn't have the million acres and have it up on the slopes of the Chookat Mountains or the Kenai Range rather than just have the vast areas of wonderful flatlands that they have now.

Mr. SAYLOR. First, you have to understand what the moose thinks. In other words, it is all right to think like a Governor, but you have to understand how a moose thinks. You can't tell a moose to change his habits which were created as the result of the natural environment in which the moose have been living. I don't know how you can get the moose to live on the slopes or the top of the mountain.

Governor HICKEL. They go there automatically. You don't have to force them up there. They will go up there.

Mr. SAYLOR. Then we have the national forests. We have had quite a number of complaints during this session of Congress about areas that have been in national forests have to stay in national forests. We have had some bills reported out of this committee that met head-on opposition from the Committee on Agriculture who maintain that once you put an acre of land in a national forest it has to remain there forever. Now, are we going to change the policy in Alaska?

Governor HICKEL. We might have to.

Mr. SAYLOR. These are just some of the problems and the basis or reasons I ask these questions.

Governor HICKEL. Mr. Saylor, some of these historic village sites are right in these national forest preserves. I don't know how you are going to solve this problem. You just can't take the village out and move it. I think it is easier to change a manmade law than it is to take people and move them. This is going to be a problem. I think there is going to have to be a look-see and reappraisal of the policy.

Mr. POLLOCK. Will the gentleman yield to me?

Mr. SAYLOR. We are willing to move the moose, but not the people. It is a little more difficult to move a native Alaskan, I realize this.

Mr. POLLOCK. I would just like to make a comment about this. If there are some 103 million acres of land that the State has allocated to be selected over a period of years following statehood and 112 million acres of land which are already in reserves of one kind or another of the Federal Government, we have 375 million acres of land, including our inland waters in Alaska, so there are some 160 million acres left and I think the point primarily that the Governor was trying to make is that if a selection of land or an acreage amount is used to resolve the native land claims there should be an additional amount out of the Federal land—not necessarily national parks or monuments, but out of the remaining lands of Alaska—so that the State of Alaska would not come out on the short end of the stick, it being the determination

of the Congress initially that 103 million acres of land was necessary to help the State function.

Mr. SAYLOR. I just want to say that Governor Hickel has made a pretty good case for himself and he makes a pretty good case for the people of Alaska.

Howard, you have helped him, but I am sure the Governor, from his testimony here, doesn't need much help. He is really an expert. He has proven himself to be an expert sitting right there.

Mr. ASPINALL. Will my colleague yield?

Mr. SAYLOR. I yield to the chairman.

Mr. ASPINALL. Governor, do you endorse the proposal of the natives, to grant 40 million acres of land to the natives? As you know, the Department itself has proposed a much smaller amount of acreage.

Governor HICKEL. I stated in my testimony here that they should be given fee simple title to the land contiguous to their areas in any amounts—I am trying to remember the exact words—that was necessary for their social and economic development. Now, if this so takes 40 million acres and it is their wish, and if we support that—I would say this, if it takes 40 million acres to settle it, I would be in favor of it, but it obviously couldn't come from the 103 million acres of State land because there wouldn't be enough land left. If you kept 112 million acres in the withdrawal, that is.

Mr. ASPINALL. You mean in Alaska you don't think it could come from the 103 million acres?

Governor HICKEL. As an Alaskan, that is right, because I don't think, Mr. Chairman, that Alaska should have to settle this issue by itself. If you took it out of the availability lands in the statehood act, they would be in essence settling this native land claims bill themselves.

Mr. ASPINALL. There are two sides to that coin, but I am not going to argue with you.

Mr. SAYLOR. Now, Governor, on the third item you have down here on page 9, "Nonexclusive aboriginal rights of natives for hunting and fishing on lands in Alaska owned by the United States."

Governor HICKEL. Yes. Surface rights. The right to trespass and use.

Mr. SAYLOR. Hunt and fish any time they want?

Governor HICKEL. That is right.

Mr. SAYLOR. Has the State of Alaska given those rights in the section of 103 million acres you have taken?

Governor HICKEL. We haven't taken it. We have patents on five and as I recall in the area, say of Point Barrow, on the north slope, we give them the right to hunt when they want to hunt or fish, for subsistence. They can take fish for subsistence when we can't commercially fish.

Mr. SAYLOR. If we are going to give them \$500 million, and give them that benefit without any restrictive trusteeship then they will be the wealthiest people in the United States under the American flag as a group.

Mr. ASPINALL. Would my colleague yield?

Mr. SAYLOR. Yes.

Mr. ASPINALL. We want to get this in the proper perspective. All of the Indian claims that have been granted so far to the Indian tribes of the lower 48 States total \$251 million. I suppose that is about half.

So when you speak about \$500 million for the Indians and the natives, Aleuts and Eskimos in Alaska, speaking of a greatly less number as the gentleman from Pennsylvania has suggested—I think what is bothering some of us is this large figure that the officials of Alaska are apparently holding out to the natives of Alaska when even in the lower 48 with all of the claims that we have down here it more than likely will not exceed \$500 million.

Thank you very much.

Governor HICKEL. I would like to mention that we specifically stated here, as you notice, that half of this money should go back to capital investment in the areas involved. I sincerely believe it when I say that that is the most underdeveloped area under the American flag and possibly in the world. It has been the lack of capital investment; it has been the lack of, really, public responsibility, to bring up the barest necessities, necessities of life.

What we are really doing for the benefit of all the Americans is taking half of this money we are requesting—we are requesting that half of this half a billion dollars go back into public improvements. There are areas there that haven't water; they have no sewer; they don't have electricity. There are many of these things that have been neglected. I think it would be of benefit not only to them, but to all the people of America, to bring this thing somewhat up to date.

Mr. SAYLOR. Governor, on page 10 you say the judicial basis for the taking of land is its fair market value. I concede this point, but what is the date when you are going to fix the value?

Governor HICKEL. I think that is very argumentative but if you have 360 million acres, \$1.50 an acre would be about half a billion dollars.

Mr. SAYLOR. We got this land for 2 cents an acre.

Governor HICKEL. That is right.

Mr. SAYLOR. One hundred and two years ago we bought it for 2 cents an acre. Now the treaties we have entered into with the Indians in this country use the date which the Indian Claims Commission has used. One of the really difficult problems has been to try and arrive at the value of land back at the dates of these treaties.

Governor HICKEL. I understand that, Congressman.

Mr. SAYLOR. Now, the criteria which you have given to us fixes the value as of today.

Governor HICKEL. It is worth more than \$1.50 today.

Mr. SAYLOR. It is worth more than \$1.50 today?

Governor HICKEL. Oh, yes. I think it will be between 1.5 and 5 billion barrels of oil on the north slope alone at \$3 a barrel. Figure it out.

Mr. ASPINALL. I can't help but interrupt here. It is not worth anything in the ground. The development cost of taking it out of the ground will eat up a good part of the value. This is the same kind of an argument that people make about oil shale values in my district. A trillion dollars worth, when anybody who knows anything about it knows that it will take at least eight-tenths of that and perhaps 85 percent in order to get it out of the ground.

Governor HICKEL. I would like to comment on that, Mr. Chairman. The discovery has been made. The offset of 7 miles away has been made. They are both productive and they could use a billion barrels. I know

that is low. This can be gotten out. At tidewater, at \$2 a barrel—I am not talking about the north slope, but at tidewater. That is just one field.

I don't know what is the value.

Mr. SAYLOR. Governor, that is all. You and I could sit here and discuss this matter for a long time. It has been around for a long time. I appreciate your frankness and I appreciate your coming here and testifying before the committee and giving us the benefit of your thoughts.

Thank you, Mr. Chairman.

Mr. HALEY. The gentleman from California.

Mr. TUNNEY. Thank you, Mr. Chairman. Thank you very much for having come so far and having given us such excellent testimony.

I have a couple of questions I would like to ask you. I am not as familiar with this problem as some of the other members of the committee, therefore I am going to ask a couple of rather basic questions. One is, what is the basis of the claim against the United States for the \$500 million? It is my understanding that Russia took this land from the natives and that we then purchased the land from Russia for full value; at least at that time.

So what is the basic legal and moral justification for the natives now to make a claim against the citizens of the United States, after they have been recently granted statehood, for \$500 million?

Governor HICKEL. I think this could better be covered by some of the attorneys for the natives group but I will give you my opinion. They won't agree, from a legal standpoint possibly, that they were ever compensated for this land and from a moral standpoint much of Alaska at the time it was sold by the Russians, the Russians hadn't even trespassed over hardly any of it; just only on the coastlines. So in reality, when it was purchased they feel they weren't compensated at all and they have had it since Time 1.

As I said before, if they don't have a legal claim, at least they have a moral claim.

Mr. POLLOCK. If the gentleman would yield, if I might add to what the Governor has said, I think it was probably very poignantly stated in the Senate hearings last February in Anchorage when a venerable old chief got up and said to the Senate committee in broken English, "I cannot speak very well; but did it ever occur to you that maybe you purchased some stolen property from the Russians?"

Mr. SAYLOR. Who did they steal it from?

Mr. ASPINALL. If my colleague from California will yield, let us not go out on that, because we white Americans are not sitting here in too good position if we follow that.

Mr. POLLOCK. He asked what the basis of the claim was of the natives and I think the basis of the claim the Government stated very well; it was their land, the Russians came along the borders and occupied or used only a very limited part of it for trading and so forth, and sold the entire part to the United States. I think from the native point of view that they have a very valid claim.

Mr. TUNNEY. Would there have been in your mind any legal claim against the United States, or moral claim against the United States, for \$500 million if Alaska had not been granted statehood?

Governor HICKEL. I think the claim would have been there regardless of statehood.

Mr. TUNNEY. Claim against the citizens of the United States irrespective of whether we granted statehood?

Governor HICKEL. I think so.

Mr. TUNNEY. Could you explain that a little further? On what basis?

Governor HICKEL. It would not make any difference from the claim standpoint whether it was a State or territory, as far as their claims to compensation are concerned.

Mr. TUNNEY. I am not clear on that point myself. At the time that Alaska came into the Union and it was testified before the House and Senate Interior Committees requesting admission, was it understood that within 10 years of admission that there was going to be a claim made against the United States for \$500 million?

Governor HICKEL. I think the statehood bill very clearly pointed out, and in my testimony, that this thing was not settled. It had to be settled in the courts or by Congress.

I think it pointed that out.

Mr. TUNNEY. Was there any mention made at that time?

Governor HICKEL. Of the amount of money?

Mr. TUNNEY. Yes.

Governor HICKEL. No.

Mr. TUNNEY. The amount of money that was to be requested to settle the Indian claims.

Governor HICKEL. No, I do not think there was any mention of the amount of money.

Mr. TUNNEY. It is my understanding, and I do not have the figures, that Alaska, of all the States in the Union receives the largest amount of money per capita from the Federal Government in return to the citizens.

I believe it is over \$1,000 a citizen. I cannot recall exactly, but it is substantially larger per capita than any other State's.

What I would like to understand on this point is, if we give \$500 million to the natives of Alaska as just recompense for the land that was taken by the Soviet Union and sold to the United States how much would this mean per capita to the natives.

Governor HICKEL. Estimated 80,000 natives and half a billion dollars, I would have to figure it out. It would be about \$600. Figure it out.

Mr. TUNNEY. About \$6,000 per Indian.

Governor HICKEL. Yes, roughly.

Mr. TUNNEY. Let me ask you this: The Indians of California—I come from the State of California—were recently awarded about \$29 million for the lands that were taken from them by the white man when he came to California. Inasmuch as the Indians were the original settlers of California, and inasmuch as there was nobody contending or competing for that land, we can assume that the entire State of California at one time belonged to the Indians, or at least in some way they had hunting or fishing rights as tribes to the entire State.

The settlement was \$29 million for the entire State. Do you feel that \$29 million for land claims of the Indians in California stacks

up reasonably with the \$500 million of the land claims being asked by the natives of Alaska?

Governor HICKEL. I would like to ask a question to help answer that. How many acres were involved in the \$29 million settlement?

Mr. TUNNEY. It was in excess of 100,000.

When I said the whole State of California was in some way involved, we are talking obviously about 100,000 square miles.

Governor HICKEL. Yes, but you are talking about a claim for 100,000 acres.

Mr. TUNNEY. Mr. Witmer, do you know what it was?

Mr. WITMER. No, I do not.

Governor HICKEL. We are talking about a few hundred million acres here. This is the difference.

Mr. TUNNEY. The point I am making is that the Indians of California had as much claim, I thought, to the lands of all of California as the natives of Alaska did to the land of all of Alaska. California is in excess of 100,000 square miles, and they were granted by whatever legal fiction in the presentation of their claims, they were awarded \$29 million for the lands they had in California.

What is being asked by the natives of Alaska is \$500 million for the lands of California.

Governor HICKEL. Alaska is five and a half times as big.

Mr. TUNNEY. On the other hand, California produced last year \$86 billion in gross State product.

Governor HICKEL. If we had not been neglected we could outproduce that. You will never win that argument with me.

Mr. TUNNEY. How many citizens do you have in Alaska?

Mr. ASPINALL. If the gentleman will yield, we have to be careful of this record. We were told when we granted statehood that you folks would be self-sufficient. Several of us did not think you would, but we granted statehood just the same. This question of neglect, we neglect Washington, D.C., we neglect Colorado, so let us not put it upon the basis of Uncle Sam, the Great White Father, neglecting any particular area.

Governor HICKEL. Mr. Chairman, I do not want to be argumentative, but in the 28 years I have been there, if you would go over that vast 300,000 square miles of Arctic and not see one bit of manmade surface transportation, then you might understand there has been some neglect.

Mr. TUNNEY. How many citizens are there in Alaska?

Governor HICKEL. 280,000, roughly.

Mr. TUNNEY. You don't deny, do you, that Alaska gets more money per capita from the Federal Government than any other State in the Union?

Governor HICKEL. I won't deny anything because it has been so far behind. I agree with you.

Mr. TUNNEY. Far behind in what way? You have 280,000 citizens.

Governor HICKEL. That is right.

Mr. TUNNEY. We have problems in other parts of the country. New York City has 8 million citizens and nobody denies there has been tremendous neglect in the city of New York. So, it is all relative, is it not?

Governor HICKEL. I would like to answer that.

We have a country that is big. It is four time zones across. It will stretch from Canada to Mexico and Atlantic to Pacific. It has two oceans and three seas. If New York City had that much land to take care of it would take an awful lot of money. This vastness, and the simple communication and simple transportation is not there. In highways alone we are many years behind. We do not get any of the interstate highway funds. I am sure you understand that. We have a mass transportation system called the Marine Highway that is 100 percent paid for and subsidized by the State of Alaska. Yet there should be highways up the coast, but it would cost billions to do that. We do not get any help for those things. We think they are a part of the problem and part of the responsibility of Government, because I don't care if there are 280,000 people or 280 million, percentagewise we pay the same taxes to the Interstate Highway Commissions. We do the same things. I feel very strongly on this.

Mr. TUNNEY. Yes, but one of the things I think has to be brought out here is the fact that because of the very few citizens you have in Alaska, you are not capable of doing these things that you talk about. Many States pay into the Federal Treasury a lot more—the citizens of the States—than they receive from the Federal Treasury.

Governor HICKEL. I agree.

Mr. TUNNEY. It is those citizens in California, New York, Florida, and all the other States in the Midwest that are paying more to the Federal Treasury than they are receiving, are helping to sustain Alaska's development and growth today.

Governor HICKEL. That is right. The same thing happened in California. Give us the same tools today that you had in the West and we will build that country. We do not get the mineral rights for the lands. When they built the railroad going out West, they got the fee simple title including the mineral rights. Give us that same thing and we will build the railroads today. We do not have the same tools you had a hundred years ago. You never had an income tax then.

Mr. TUNNEY. What kind of per capita investment is involved? That is the basic question.

Governor HICKEL. I think it is relative. A hundred years ago in California it was just as difficult as it is today in Alaska. You had to have help from the East at that time. But you were given your land. You were given the right to these mineral rights privately and you could go and do these things. We cannot do it.

Mr. TUNNEY. I am not talking about the giving of the land. I am talking about the \$500 million.

Governor HICKEL. I am talking about the private industry a hundred years ago, Chairman Aspinall, compared to today.

Mr. ASPINALL. Governor, we are having a Public Land Law Review Commission Study of this whole thing.

I think perhaps we will be able at that time to front up this question of values better than we are at the present time.

Governor HICKEL. That is fine. I am just here to answer questions.

Mr. TUNNEY. I appreciate the chairman's remarks, and I think maybe I will defer further questions until the Public Lands Law Review Commission comes up with its findings.

Mr. POLLOCK. Mr. Chairman, I would like to make a comment, that we have many witnesses and very little time. I am extremely concerned

that some of our very capable witnesses won't have an opportunity to testify if we do not move on faster.

Mr. HALEY. The gentleman makes a very good observation.

Mr. BERRY. Mr. Chairman, I certainly agree and I shall not get into any argumentative situation, Governor. I want to commend you on an excellent statement. In your statement there are a few things that I would like to have you explain just a little. On page 9 you are talking about this settlement with the Indians of Alaska. The second point is you want the land in fee to these historic villages.

Would this be in fee to a tribe, or would it be in fee to individuals?

Governor HICKEL. To a tribe, to an area; not to individuals.

Mr. BERRY. Would the tribe in turn be able to sell and dispose of this land?

Governor HICKEL. I think they would develop it anyway that their council or their group management would wish them to do it. In the general concept of the historic site of the village, you could not say it would be public use, but it would be for their cooperative use.

The developments in that area would be for their cooperative use.

Mr. POLLOCK. If the gentleman would yield, I think a lot of this will be covered in later testimony.

Mr. BERRY. Very well.

I have just one question about your capital investment. What is proposed in capital investment; housing?

Governor HICKEL. It could be housing but basically we are talking about public works, community buildings, water sewers, things of necessity to be brought up to what is needed. It would be for the public benefit. It could be housing if they saw fit. We were thinking of a public works type of project.

Mr. BERRY. In this whole program your thought is that they should not be restricted to trusteeship by the Department of Interior.

Governor HICKEL. That is right.

Mr. BERRY. Do you feel that they are competent to handle their own affairs?

Governor HICKEL. I do. They know the area well.

Mr. BERRY. I think that is all, Mr. Chairman.

Mr. ASPINALL. Just to clear the record so we have the values, it might appear that some of us are against this bill. We are not against this bill. We want the record right.

Governor HICKEL. I understand.

Mr. ASPINALL. Under the Statehood Act the State of Alaska gets all the fee, service, timber, minerals, and everything else to almost one-third of the entire State. Not only that, they have 90 percent of all of the mineral values of the Federal lands going into the State of Alaska. This is not an argument, but just to see that we have these values in their proper perspective.

Thank you very much.

Governor HICKEL. I would like to clear up one point, if I misled you. I meant from the standpoint in those days it could be done privately and those lands could be owned privately and the private ownership could have the mineral rights and all that. That is what I meant in the development of California, unlike the development of Alaska where the State and Federal Government have to lead in this area.

Mr. POLLOCK. Mr. Chairman, I would like first to compliment the Governor on his excellent statement and testimony. Several points occurred to me on the basis of the general discussion, and one is that while the State of Alaska was awarded something like 28 percent of the land mass of the State of Alaska for State selection, we have only been able to select about 5 billion acres and we have had a land freeze imposed upon the State and its selection now since the beginning of the year. This is one of the many problems that all of us want to get resolved. This is one of the aspects of urgency about resolving the native land claims problem.

As to the comment of the distinguished chairman of the full committee earlier about the amount of money which has been paid to all claims in the lower 48 States, excluding Hawaii for the moment, I think part of the problem, Mr. Chairman, is that what we are talking about now is something the Governor alluded to, and that is the great landmass we have in Alaska. So if there is a question of taking or a question of compensation for land, we are talking about an area which comprises something like one-sixth of the entire United States. I think we are dealing in larger figures. As a consequence, we might very well get into higher mathematics. I have no further comment. I am pleased to have the Governor here.

Mr. HALEY. Are there any further questions?

Does any member of the professional staff have any questions? If not, thank you very much, Governor.

Governor HICKEL. Thank you, Mr. Chairman.

Mr. HALEY. May I call to the attention of the members of the committee, you keep talking about this land belonging to the Soviet Union, actually as you well know we bought it from the czar of all the Russians.

Mr. POLLOCK. A pertinent comment, Mr. Chairman.

Mr. HALEY. So the Russians today might not want to participate in something that the czar did because they did not treat him too well.

The next witnesses are the Alaska Federation of Natives. I understand that they want to come forward as a panel of six. Mr. Notti, Mr. Wright, Representative Hensley, Mr. Borbridge, Mr. Groh, and Mr. Jackson.

Will you gentlemen come forward?

STATEMENT OF EMIL NOTTI, PRESIDENT, DON WRIGHT, HON. BILL HENSLEY, JOHN BORBRIDGE, CLIFF GROH, AND BARRY JACKSON, ALASKA FEDERATION OF NATIVES

Mr. HALEY. Gentlemen, just so we know who is who, will you start on my left and give your names to the reporter?

Mr. JACKSON. Barry Jackson.

Mr. WRIGHT. Donald Wright.

Mr. NOTTI. Emil Notti.

Mr. BORBRIDGE. John Borbridge.

Mr. GROH. Cliff Groh.

Mr. HENSLEY. Bill Hensley.

Mr. HALEY. Do you have a spokesman for this group or do you just want to present the statement?

Mr. NOTTI. Mr. Chairman, we would like to make individual statements and, as the questions come, we would like to refer to the person we feel could give the best answer.

Mr. HALEY. You may proceed.

Mr. NOTTI. With the permission of the chairman, I received a letter just a few minutes ago and I was asked to read it to the committee.

With your permission, I would read it.

It is addressed to the chairman and is as follows:

The Alaska native people have waited 100 years for action by the federal government on their just claims. This is too long to wait.

Alaskans are a patient people but patience wears thin.

I am pleased, therefore, and thankful that your committee, even at this late date in the session, has agreed to conduct hearings and to receive the testimony of the representatives of the Native people. I know full well it is too late for final congressional action this year, but I know that it is a good thing to make a record and that evidence received this Congress will be valuable in the next.

I do wish that it were possible for me to be present to introduce the Native leaders who are coming to Washington to testify before your committee. My illness, unfortunately, precludes that. I would like it also to be possible for me to participate in the hearings, for I would like to discuss with your committee the urgency and importance which I assign the resolution of the Native land problem.

The hearings you are holding will be an important step toward solution of the Native land claims. They should help to define issues, identify areas of agreement, and hopefully assist in bringing about a meeting of the minds. For soon, the Congress, the administration, the state and the Native people must resolve their differences. For soon, there must be action.

I know that the people of Alaska join me in thanking you for this opportunity to come before your committee and discuss native land claims. We are indeed delighted that you are conducting these hearings.

Mr. ASPINALL. You may proceed.

Mr. NOTTI. My name is Emil Notti. I am president of the Alaska Federation of Natives. Our organization represents all of the 49th State's more than 55,000 Indian, Eskimo, and Aleut people. Some of my colleagues here today will have special testimony to present on specific subjects, and we are all, of course, available for questioning and exploring in depth any fields which the committee members may bring up.

I would like to take this opportunity to express the thanks of Alaska's native people to the committee for holding these hearings. We know the press of other business that is before the Congress and appreciate that you gentlemen are concerned enough to schedule us. May the results be beneficial both to the people we represent, to our fellow Alaskans, and to the orderly development of Alaska as a major resource of people and commodities that will help shape this great Nation of ours.

There has been a quiet revolution going on in the 49th State since the fall of 1966. In October of 1966 we had our first statewide meeting of native people, some 300 representatives from all parts of Alaska.

We are here today to acquaint you gentlemen with some of what we believe are significant details that should be considered in any final draft of legislation prepared to settle this more than 100-year-old conflict. For as you all know, the Congress has reserved unto itself the settlement of any interest that Alaska's original inhabitants might have in the lands which were acquired from Russia in 1867, and, incidentally, used and occupied by native people for thousands of years prior to that time.

So, although you look to the executive department charged with recommending legislative proposals for your consideration, you cannot help but wonder, as we Alaskans have, and as our lower 48 brethren often have, why it has taken a century for this matter to be brought to a head.

The primrose path of promises and the byways of chicanery and deceit have come up against a stone wall—the irresistible force has finally met the immovable object. Not an immovable force in that we are unwilling or unable to compromise for the good of all concerned. We have waited patiently and we have learned. Now after 100 years of frustration, and waiting with great patience, which is, as most of you with Indian constituents know, a fine art practiced by our people, we are ready. We are ready, to sit down with our nonnative neighbors, as we did for more than 6 months in preparing S. 2906, as we did in bringing together the many divergent and diverse groups of native people in Alaska for a common purpose and goal.

We are pleased to note the Congress, in both Houses and on both sides of the political aisle, has not taken any firm position with respect to a final solution of the just claims of Alaska's native people. We note that Congress has on more than one occasion directed the executive department to leave the solution to the Congress. And here it rests today, gentlemen. Here it is. As one of your former colleagues who later became a great President used to say: "The buck stops here." Your Senate colleagues came to Alaska and held hearings on those proposals that were before that body in February 1968. Those same Senate proposals have their House counterparts. They are: H.R. 17129, H.R. 15049, H.R. 11213, and H.R. 11164.

So we now have plenty of proposals.

At the Anchorage, Alaska, hearings conducted by Senator Jackson, we were able to present the testimony of many native leaders. It was significant testimony. We must apologize that, due to the costs involved and the fact that subsistence fishing is now in progress at home, we were unable to repeat that testimony for this committee. However, we respectfully urge you and your committee staff to read the printed record. It is contained in the document entitled "Alaska Native Land Claims"—hearings before the Senate Committee on Interior and Insular Affairs on S. 2906 and S. 1964, S. 2690, and S. 2020, related bills. The hearings were held on February 8, 9, and 10, 1968, at Anchorage.

You might well ask: What objections do Alaska's native people have to the administration proposals at this time? First of all let me say that basically we are of the position that (1) 40 million acres of land is not unreasonable nor is it unjustifiable and (2) \$500 million as compensation is not excessive for reasons that I will now point out. As you will see from Mr. Wright's presentation, this acreage is spread out over an area comparable to 19 of our eastern seaboard States and nearly five of our Middle Western States.

Our population, native population that is, is estimated at some 53,000 by the Interior Department. We believe, based on the results of the present roll-taking for the Tlingit-Haidas, that the actual native population of Alaska, both resident within and without the State—and remember all Alaskan natives will be eligible for sharing in any settlement—is closer to 65,000. On a per capita basis that breaks down to

about 600 acres per man, woman, and child, and remember where the vast majority of that acreage is located.

Deducting the Federal reserves of all kinds, the lands already selected by the State and the land occupied by existing cities, towns, and villages, the Alaska native land interest is concentrated in a highly restricted area. And it isn't prime land at that. Couple this with the fact that in effect we are asking a blanket settlement, to coin a phrase, to end protests and litigation, we feel that is a reasonable amount of land on which to continue our already meager existence.

However, we must have funds for economic reasons that are all too apparent. They need not be discussed in detail in my presentation. This aspect will be covered in later testimony.

With respect to payment for lands I wish to make the following points.

The recent Court of Claims decision established the value of lands taken in southeastern Alaska at somewhere in the vicinity of 43 cents per acre. That land was taken considerably after the Treaty of Cession with Russia which the administration desires to use. We do not see the justice of this decision, nor the reasoning that went into it. However, be that as it may, the least that can be said is that would be the rock-bottom price for Alaska's remaining lands.

Some time ago, following Mr. Udall's latest proposal for settlement, the natives of Alaska offered to purchase the remaining lands at the price so established. We were not being facetious in our offer; we were deadly serious.

But we realize that a realistic value must be placed on the lands. The wealth underneath those lands is not known and it may not be known for many years to come. There have been some indications from recent explorations and discoveries of what some of those lands may yield with proper development, but the actual wealth can only be estimated. Perhaps we are, as some of our own critics have said, selling short, but we also realize that others have the knowledge and equipment with which to develop these lands more adequately than we can. That is not to say that we can't or couldn't do what others do—hire the expertise—but the fact remains that we are not now in a position to pursue this avenue. We are, however, in a position to protect our future generations by acquiring a reasonable share of our lands through this settlement. And we believe that a more liberal land value can be established. For example, it has been suggested that since the Department of the Interior is apparently immovable on the date of taking as 1867 we might possibly agree to that date. And we would be making a tremendous concession. If we move to that position, then it is reasonable to expect that Interior and the administration could agree that the open and unclaimed lands of the United States in 1867 were being sold every day for between \$1 and \$1.25 per acre. In fact they were.

It is not difficult to multiply the higher figure and see that the 365 million acres we are talking about come to a valuation of some \$456,250,000. Not very far from our \$500 million figure. The difference is interest over the past 100 years. This, we believe, is another negotiable matter.

You will note that there are only 175 native communities in the State of Alaska. Those are communities wherein more than 25 people are permanent residents and more than half of those are native people.

The proposal that up to 50,000 acres be granted each village only amounts to some 8,750,000 acres, a mere pittance compared to the remainder of the land that will benefit not only Alaskans but others in our great Nation as well. For the products of these lands will, as they already have done, contribute much to our abundant gross national product. And remember, we haven't even mentioned the resources to be extracted from the sea that surrounds us.

So our position is not extreme. Nor are our requests unreasonable. They have been misinterpreted, misunderstood, and misrepresented, usually by special-interest groups that are not even Alaskan-based.

One additional objection that is a major one as far as the native people are concerned is the matter of the proposed Alaska Native Commission and the continuing trusteeship by the Interior Department, especially if it is assigned to the Bureau of Indian Affairs. We oppose unqualifiedly any efforts to create another bureaucracy, with the Department to administer, oversee, or effect judgments concerning Alaska's native people. A Presidential autonomous commission reporting directly to that Office or an independent agency reporting to the Congress would be far more acceptable. We would hope that the Congress consents to having the commission weighted favorably to Alaskans and predominantly native in membership. Operational headquarters, we urge, should be located in Alaska.

The proposed trusteeship that the Department of Interior wishes to continue—under what principle we do not know, except perhaps that they have failed in their other trusteeships in the lower 48 and wish to continue Alaskan natives in the same vein—may have its points. However, they are not clear at this point in time. We feel there are existing institutions that can carry this responsibility far better than the Department of the Interior.

Our concept of statewide regional corporations acting on behalf of their native membership can more than adequately fill this role.

Perhaps some of the things we propose are daring. Perhaps they haven't been tried before or, at best, if tried, they were doomed to failure because of the inattention of those responsible for their management. But these are new approaches and these are new times and the time for bold new approaches is now. We can only say that the Congress must face this issue this session.

One additional bill, S. 3586, H.R. 17128, has been introduced by the administration. We see little difference between it and the first administration proposal in S. 1964. As a matter of fact, it was S. 1964 and the resulting furor it created that caused Mr. Udall to make his famous flying trip to Alaska in November 1967. It was at the urging of Mr. Udall, as the record will show, that Alaska's State administration formed the Native Land Claims Task Force. To this group fell the task of obtaining agreement between basic native and State issues. It was also to this group that Mr. Udall appointed a personal representative. It cannot be said, at this point in time, that the executive didn't know what was going on or what was being proposed.

We believe that two additional members of that task force should have been invited to sit in—the chairmen of the House and Senate Committees on Interior and Insular Affairs, or at the very least their designated representatives. Perhaps we wouldn't be here today justifying our need for equity had that been done, for we and the State were

led to believe that agreement between the native people and the State was essential before any proceedings could move ahead and that this agreement between the native people and the State would ease the matter of obtaining appropriate legislation during the present session of Congress. Wouldn't you have believed the same thing and acted under the same circumstances? That's exactly what we did do and the results were incorporated in S. 2906.

The Senate committee hearings followed. You have the record of those proceedings before you. You gentlemen are also conducting your own inquiry into the matter. We do not object to the procedural matters. We understand the necessity. We appreciate your efforts on our behalf. What we are unable to comprehend—and the State of Alaska does not comprehend, nor does its legislature, or the rest of its citizens—is that we have now come full cycle once again and are, as the land surveyors say, back to the point of beginning.

Alaska's native people do not ask for the moon. We have taken a reasonable and completely justifiable position. Our native people ask only that you gentlemen of the Congress now take up our struggle and reach, in your judgment, the most reasonable, equitable, and just settlement you find possible under the circumstances.

We do not look with any favor on long litigation through the courts. But we are prepared to take that step if it is necessary.

We, as do your many thousands of constituents, believe that you have the wisdom and belief in justice that can erase this problem once and for all. That is all that we ask.

Now, for the benefit of the committee I would like to introduce our other witnesses. Each has prepared testimony covering certain phases of our presentation. We shall be as brief as possible and, of course, will be available for questions as the committee desires.

Our attorneys, Mr. Clifford Groh and Mr. Barry Jackson, will present the legal background arguments.

Mr. Donald Wright, president of the Cook Inlet Native Association, has a presentation that will bring into perspective the land comparisons which you will find interesting. You know, in Alaska, when we talk about 40 million acres, and then you gentlemen relate that to the same amount of land in your home State, it seems like a lot to give up. But when you see it laid out on a comparative map, then the reasonableness and soundness of 40 million acres becomes plain.

Mr. John Borbridge, Jr., president of the Central Council of the Tlingit and Haida Indians of Alaska, will present testimony concerning the foundation of native land rights.

Mr. Flore Lekanof will cover the field of education. We know this cannot be done in the brief span of time of these hearings. But he will bring out some new points that we who are products of the present educational system have experienced.

Mr. Willie Hensley is a member of the State legislature and a recognized Eskimo leader. He will present the rural Alaska picture to the committee. For your information also, Mr. Hensley is president of the Alaska Village Electric Cooperative, which is bringing light to some 67 native villages in Alaska.

Again, let me say on behalf of Alaska's native people that we sincerely appreciate the opportunity to present our case to the committee. Thank you.

I think our next witness would be Mr. Donald Wright.

**STATEMENT OF DONALD R. WRIGHT, FIRST VICE PRESIDENT OF
ALASKA FEDERATION OF NATIVES**

Mr. WRIGHT. Mr. Chairman, in connection with my testimony, I have a series of maps with various overlays that are self-explanatory. With your permission, I would like to bring the map stand over and present those.

Mr. HALEY. Very well.

Mr. WRIGHT. I have a prepared statement that is before you, and I will use this as a guide as I go through my testimony.

To begin with, I want to point out the State of Alaska and the significance of the mountainous terrain in certain areas, this is a large mountain range and a large mountain range here, and the Alaskan Range going down to the Alaskan Peninsula in the Aleutian Island area. The north slope is permafrost barren type of country. Western Alaska is swampy, permafrost country also.

On this overlay each village that is in existence today is noted there. The square around the village designates 500 acres of land per person residing in those villages today. You can see where the native population is. It is on the north coast, southwestern Alaska, along the coast lines, along the river drainages.

With that we will go to these other overlays. This map shows the Federal withdrawal up through 1964. Petroleum reserve in northern Alaska, wildlife refuge, the military withdrawals, McKinley National Park, another national park here, and all of southern Alaska forest is withdrawn; and the part of south central, around Anchorage, is forest reserve. The rest is game preserves and wildlife refuges. Again you can see where the population is, with each village named on the map. These very small dots that you see would be the amount of land that was proposed by Secretary Udall. It is very insignificant.

The areas of Alaska that the native people reside in, the biggest population concentration, is in relatively poor land. The withdrawn areas are valuable land. The people are entitled certainly to land around their villages. This overlay shows the State-selected land. The State has selected primarily the land around what we call the rail belt area. The Alaska Railroad runs from Anchorage to Fairbanks, Alaska. The highway runs in the same general direction. The State for all practical purposes has selected most of its lands within the rail belt area. They have selected some between the reserves up here and leased it out as oil leases. They have taken what little land they could from outside of Federal reserves. Remember that the native people of Alaska have no land—they have title to no land at all—anywhere in Alaska, under the present status.

Once again the red-shaded areas on this map are the areas that we are requesting Congress to grant title to the native villages. The black dots represent other populated areas in Alaska.

As you can see, the rail belt area and the highway system is highly populated and the southern area is. These maps were drawn based on a survey done by the Federal Field Committee in cooperation with the Bureau of Indian Affairs. So the populations may not be quite accurate. These red areas represent 202 villages. In addition to that there are native people residing in some of the larger communities in the urban areas of the bigger cities amounting to about 25. At one time

there were over 500 villages scattered farther apart because the people lived off subsistence—hunting, fishing, and so on and so forth. They moved into these larger areas because of economics and because of an attempt to change from a subsistence type of living to a wage economy and attempt to get an education. So they moved into areas a little more concentrated.

Mr. EDMONDSON. For identification purposes, may I ask a question here: Are these red areas you designated without exception outside of the areas that have been withdrawn by both the Federal and State Governments?

Mr. WRIGHT. No.

Mr. EDMONDSON. Do they include some withdrawn areas?

Mr. WRIGHT. They include some withdrawn areas. I will go generally into some of the natural resources of Alaska first.

This overlay shows known locatable base nonmetallic minerals. The other lighter shaded areas show oil-gas potential. The known gas fields are the solid circles. You can see that the native population by and large is in some of these fairly good areas for minerals, but there is a vast amount of this mountainous country that the native people do not actually live in which has some mineral wealth. In southeast Alaska the same way.

This map in the shaded areas shows critical big-game areas: goat, sheep, black bear, brown bear, moose.

You can see the locations relative to the villages of the big-game animals. You can see where our population from a subsistence standpoint for big-game animals is located.

You can see the areas of use and occupancy because they followed the game and utilized it.

This map shows the areas of our water fowl—the resting areas, nesting areas, and so on. Again you can see our great concentration of population, if you understand part went for big game and part for other types of game. This also shows the patterns of cold-water fish. Again you can see from a subsistence standpoint the reason why the people are spread fairly even over the whole of Alaska on a subsistence economy type basis.

Mr. EDMONDSON. Which are the fish indicator colors?

Mr. WRIGHT. The fish are in the light-green areas, and all the green lines are actual fishing streams.

This map shows you the forest area, the commercial timber in Alaska. Roughly, in the Yukon River drainages, there is an estimated \$800 billion board feet of usable timber. On a sustaining basis this wealth can continue.

In southeast Alaska, where the Court of Claims recently awarded the Tlingit-Haidas 43 cents an acre, there is an estimated 100 billion board feet of hemlock and Sitka spruce, and other species of commercial timber. That stumpage value would be into the hundreds of millions of dollars. Again, on a sustaining-yield basis, it is perpetual. When they made an award of 43 cents an acre, it is rather unfair. The true value of this particular land is in the neighborhood of \$110 an acre as a base price as it is for the timber alone. Once more I will point out the Federal withdrawn areas, on this map. The Federal reserves are in blue. We are asking in our bill for enough land to bring us through a transition of a subsistence-type living to a wage-economy type of liv-

ing. In order to do that and maintain our villages, we need land from those withdrawn areas. At the time that these areas were withdrawn, obviously the people that did it did not realize that the native people actually lived there and certainly should be entitled to a land base. I think, if they had thought of it, they would have reserved excluding a reasonable amount of land for the native people.

Mr. EDMONDSON. Are access and use being permitted on those withdrawn areas?

Mr. WRIGHT. They have surface rights. The problem is that without a land base and without investment money they cannot develop. As a result many of them are on welfare rolls and many are attempting to make a living; but there is no real way for them to do that. They need a reasonable amount of money. In Alaska the housing in some of these areas, especially in this particular area here, is tarpaper shacks, scrap lumber, with no water, no sewer. Do any of you gentlemen have any questions in regard to this map display?

Mr. HALEY. Let us continue with the testimony of the other members and then we will come back to that.

Mr. WRIGHT. Yes, sir.

Mr. HALEY. Does that complete your statement, sir?

Mr. WRIGHT. Yes. I think we can continue and, if there are questions, we will attempt to answer them.

(The statement follows:)

STATEMENT OF DONALD R. WRIGHT

My name is Donald R. Wright. I am First Vice President of the Alaska Federation of Natives. I am also President of the Cook Inlet Native Association. My purpose here today is to present testimony concerning the status of the lands in Alaska from the Native viewpoint. Another purpose is to bring to you gentlemen an overview and comparison of the lands, villages, and population in Alaska. I have here for the Committee's information various maps and overlays that will aid in furthering your understanding of the land question.

My first map illustrates the distribution of Native villages and population as they exist today. This map was prepared from information developed by the Federal Field Committee for development planning in Alaska in cooperation with the Bureau of Indian Affairs. It shows the estimated land area in and around each village based on a grant of 500 acres for each person residing in those villages today. It does not include an allocation of lands for the urban Native who at one time or another resided in these villages or those that have been extinguished for one reason or another. However, these Native people must be included.

Although the Field Committee study now shows only 178 Native villages, there were at one time more than 500 villages. Movement of Native population to centers of trade and commerce and employment and limited educational opportunities account for the decimation of the village structure.

The first overlay shows all Federal withdrawals up to July 1964. You note that the reasons for the withdrawals appear to be economic in character and they did not bring any direct benefit to the Native people. As a matter of fact, in all instances, they were made without consulting the aboriginal inhabitants. The total wealth extracted from and as a result of these withdrawals is well documented. For example, it is estimated that more than six billion dollars in fish, furs, and minerals have been extracted from Alaska since 1867. The estimated timber potential in withdrawn forest reserves in Southeastern Alaska alone will exceed 100 billion board feet. The timber potential on the river drainages will exceed 800 million board feet. The coal and oil reserves have not been fully explored but all indications are that these two minerals alone will return hundreds of billions of dollars when fully developed. Potential hydroelectric sites explored to date exceed 68 in number with a prime power potential of 13 million kilowatts.

The next overlay shows the land selections made by the State of Alaska since statehood, including lands tentatively selected and for which patent has not been issued. Note that these selections are mostly contiguous to the Federally withdrawn areas, follow the present transportation routes and population concentrations. It is significant to note that neither the Native people nor the State of Alaska have been able to make any dent in the Federally withdrawn areas, especially in Southeastern Alaska.

For example, the Federally withdrawn areas on the Kenai Peninsula, Alaska Peninsula, Kodiak Island, Southeastern generally, Bering Sea, North Slope, and Aleutian Chain have effectively worked to bar economic development because private risk capital is prevented from entering these areas. This has also denied any land base to Alaskan Native villages located in these areas and prohibited State selection as well.

An evaluation of the rural Alaskan areas in abject poverty today can be traced to cumulative deterioration of the normal subsistence economy and Federal requirements prevented the Native people from making the transition from subsistence to cash economy. In general, the remaining lands outside Federal or State withdrawn areas are mountainous, glacial, and barren tundra and have no known resource for the people. The only potential we can see at this time is for development of mineral exploration which as you know is highly expensive and difficult.

We also have overlays showing timber locations by species, game animals, fisheries resource, and lode and placer minerals. These are all self explanatory and are provided for the Committees use and information.

We have prepared for the Committees benefit a map showing the comparison of land distribution using Secretary Udall's proposal, as outlined in H.R. 17129. You will note that based on his formula there would be no significant land base from which villages could develop an economic base. We believe that the villages of Alaska have Native leadership capable of managing and developing on a regional basis and at the local level. In order to accomplish this goal we believe that a minimum of 40 million acres of land is necessary to provide the economic and land base for both rural and urban Native people.

In order to develop the lands we are seeking for the benefit of our Native people, sufficient funds need to be provided. For example, we note that since statehood, the oil industry alone has expended 1.3 billion dollars in overall industry development. In 1967 alone, the oil companies invested more than 380 million dollars, with allied industries investing nearly 77 million dollars. That's for one resource.

We believe that 500 million for village and regional development, an investment by the Congress, is not asking too much. Not when one considers that the basic investment is being made in people—a commodity we can ill-afford to treat in the future as badly as we have in the past.

Mr. HALEY. Who is next?

Mr. NOTT. Representative Willie Hensley.

Mr. HENSLEY. I have some copies of my statement here.

Mr. HALEY. Without objection, all of these gentlemen will be permitted to file a written report or written statement which will be made a part of the record and you may comment or you may read the report.

Mr. HENSLEY. Mr. Chairman, my statement is rather short and with your permission I will read it.

Mr. HALEY. Very well.

**STATEMENT OF HON. WILLIE HENSLEY, A REPRESENTATIVE IN
THE ALASKA LEGISLATURE FROM THE 17TH DISTRICT, KOTZEBUE,
ALASKA**

Mr. HENSLEY. Mr. Chairman, members of the committee, I am Representative Willie Hensley from Kotzebue, Alaska. I represent the 17th district in the Alaska Legislature—an area of approximately 90,000 square miles containing about 10,000 people. Two of the largest Eskimo villages are in my district—Kotzebue and Barrow—each with about 2,000 people. I am also chairman of the 40-member Land Claims

Task Force that was created by the Governor last year, and a recently appointed member of the National Council on Indian Opportunity which President Johnson established and the Vice President chairs.

I am submitting for the record a copy of a report by the Governor's Task Force on Native Land Claims. This report was drafted following lengthy work sessions by a tripartite group consisting of the natives of Alaska, the State, and Interior Department officials. We attempted to seek a solution acceptable to the major parties concerned in the settlement of the Alaska land issue.

This is my first appearance before this subcommittee, and I doubt that this committee has ever before considered legislation concerning the land claims of the Alaska Eskimos, Indians, and Aleuts on a statewide basis. You have undoubtedly seen and heard many delegations of Indian tribal groups from the lower 48, but we want to make clear that the situation with the Alaska natives is quite unlike that of recognized tribal entities you are accustomed to dealing with.

1. Alaska natives are not recognized as a single tribe by Congress or the Interior Department.

2. We have only recently organized regional associations and a statewide federation. These associations grew as a result of the land issue and a desire by the native people to improve their economic and social condition, but these organizations are not recognized in law.

3. Only a very small percentage of Alaska's natives reside on few reservations.

4. The major Alaska native groups, the Eskimo, Indian, and Aleut, are culturally and linguistically distinct.

But we all basically agree on the major objectives in the land settlement.

You may wonder—during the course of the testimony—why you hear so much about the social and economic conditions of the Eskimo, Indian, and Aleuts. We feel that a settlement of the land issue is a major part of the problems we face and, as soon as this problem is generously disposed of, we can begin concentration on educational and economic improvement of the 53,000 Alaska natives residing in Alaska.

Here, in a nutshell, is a picture of the Alaska Eskimo, Indian, and Aleut.

One-fifth, or 53,000, of Alaska's population is native. We live in scattered villages throughout Alaska's 586,400 square miles. Seventy percent of the native population live in 178 villages. We have a subsisting economy of hunting and fishing, supplemented by cash incomes earned on various jobs during the short summer season. Seven out of 10 adult natives have only an elementary education. We have a rapid rate of increase—29 per 1,000 annually—which is twice that of the United States. The median native age is 16.3, and 80 percent are less than 35 years of age. The median family size is 5.3. One-half of the native work force of 16,000 to 17,000 is jobless most of the year. The accrued death rate is twice that of white Alaskans, 9.6 deaths per 1,000. The cost of goods in the remote parts of Alaska is 74 percent above Seattle costs. Most Alaska native families earn less than \$2,000 annually.

The picture is bleak, and there is a definite trend indicating that things are not improving. I am fearful that the future of Alaska's natives will be a frustrating and hopeless one, if Alaska continues to

boom from development on land that is still in Indian title and no benefits accrue to the native groups.

Thus, we feel that Congress has a perfect opportunity to grant to the Eskimos, Indians, and Aleuts of Alaska sufficient land for development and use, and compensation for the lands not retained. This will afford us an opportunity to lift ourselves from a century of neglect by the Federal Government, which prides itself on its record of aboriginal protection.

I, personally, feel that there are several interrelated goals you must keep in mind in the consideration of the Alaska land bills before you:

1. The dissolution of the Bureau of Indian Affairs in Alaska over a period of time, and the assumption of these responsibilities by the native groups—this is contingent on a generous settlement.

2. The maximizing of native control over their finances and resources and diminution of the Secretary of Interior's power over natives.

3. The creation of a program of native leadership development in education, business, and politics.

This subcommittee should know that this land issue has been kept under the rug since Alaska's purchase from Russia in 1867. By a supreme effort of organization, the Eskimos, Indians, and Aleuts of Alaska brought the issue to the forefront, and we now lay it before you for consideration and action next session.

The task force which I chaired recognizes certain basic objectives in a land settlement:

1. We feel that lengthy litigation should be prevented in the courts. The entire State will suffer if compensation for land takings is not soon paid to the native groups.

2. The task force desires a simplification of the administrative process. The powers of the Secretary of the Interior should be limited and controls over land, if necessary, be located in Alaska with native representation.

3. We feel that the benefits of the land settlement should be spread broadly among the natives, but the concept of private property be preserved.

4. Surface use of land must be assured, as we will not revert to a cash economy overnight.

In closing, I make a final plea—I want this subcommittee to aid the Alaska Eskimos, Indians, and Aleuts, to help us to build our own future. We want eventually to become free citizens without a Bureau to protect us. At this stage, we feel the freeze established by the Secretary of Interior is necessary, though it is to a degree a belated effort to aid us. In itself, it is not enough, but it is presently protecting our use and occupancy until Congress acts. We feel that our demands are reasonable and we are now taking the established route of seeking a solution to Alaska's biggest problem. Most Alaskans generally recognize our present Indian title to most of Alaska, and we call on you to translate this impasse into legislation which will allow us to build a State free from vast gaps in economic conditions between native and white. The future of Alaska will be indeed dark if the situation is allowed to persist.

(The attachment follows:)

PROPOSAL FOR SETTLEMENT OF THE ALASKA NATIVE LAND CLAIMS

A REPORT OF THE GOVERNOR'S TASK FORCE ON NATIVE LAND CLAIMS,
JUNEAU, JANUARY 10-16, 1968

Hon. WALTER J. HICKEL,
Governor of Alaska:

Your Task Force proposes a four part settlement of the Native land claim question, consisting of—

(a) A grant of 40 million acres of land in fee, or in trust, to village groups (compared to the 102.5 million acres given the State of Alaska under the Statehood Act, or the much larger area encompassed in the Native claims) allocated among the villages in proportion to the number of persons on their rolls.

(b) A grant of a 10% royalty interest in outer continental shelf revenues, along the lines proposed by Secretary Udall, in lieu of the right to compensation for lands reserved or disposed of to third parties, with an immediate advance payment of \$20,000,000 by the Federal Government.

(c) A grant by the State of a 5% royalty interest in state selected lands, tidelands, and submerged lands, but excluding current revenue sources from the state lands (in order to avoid direct impact on the general fund) and commencing only upon lifting the land freeze and resumption of state selection.

(d) A terminable license to use the surface of lands under occupancy and used by Natives.

Principal objectives of the Task Force in developing our proposal include the avoidance of courts and litigation, the simplification of the administrative process, the early accomplishment of the settlement, the grant of present property interests, the avoidance of state and federal control, the need to avoid "freezing the villages in history", the spreading of the benefits from royalties widely, but recognizing private property concepts, and utilizing modern corporate forms for engaging in business enterprises by Native groups.

For convenience, the four parts will be called (a) township land grants, (b) offshore royalties, (c) state-granted royalties, and (d) surface rights.

The details of the proposal, as worked out by the Task Force, are as follows:

Township land grants

1. Each village (of 25 persons or more) may select land from within the claim area (or area in which it has aboriginal occupancy). The amount of land is determined by the number of Natives on the village roll.

2. The selection process would be similar to that provided the state in the Statehood Act, and the time to select would be 25 years.

3. In order to accelerate the selection, the Secretary is to take a temporary roll, including on the roll those residents in the village and others who can be quickly included, such as those resident in other towns and cities. The roll should be as complete as possible, given the limited time it will be open for enrollment.

Upon completion of the temporary roll the village makes its initial selection, which shall be given priority against any state selection not patented or tentatively approved, in the reserved area. As to patented or temporarily approved lands, an exchange of lands procedure should be provided for. The state is then free to select any other land in the reserved area.

Upon completion of the permanent roll the village may select additional land for the net additions to its roll (or may reconvey some of its selection to the United States in the event the permanent roll totals less than the temporary roll).

In order to provide for early lifting of the land freeze, the villages will nominate areas for preferential selection, based upon their estimated entitlement, and these areas will be withdrawn by the Secretary of the Interior. The areas withdrawn shall not exceed 40 million acres. The "land freeze" is then lifted as to other areas in the state, within six months of the passage of the Federal Act.

Your Task Force favors the continuation of the land freeze at this time, but we recognize the public interest in early resumption of state selections. We have spent many hours attempting to reconcile the opposing positions in a manner that would be fair to all. We have been unable to work out a method that could result in freeze lifting before the passage of the Federal Act, but we remain prepared to consider any such possible method. We have requested the Interior Department and your Attorney General to review this problem in hopes of working out a solu-

tion which would provide a lifting of the freeze even earlier than we here propose, which is six months after the adoption of the Federal Act.

4. If there are not sufficient lands in the claim area for selection, the village shall be entitled to in lieu selection, subject to the priority right of each village to township selection under its temporary roll. Because such lands will be selected primarily for economic value, any revenues from in lieu lands will be subject to a one-sixth ($\frac{1}{6}$) royalty to the local village and a one-sixth ($\frac{1}{6}$) royalty for the statewide Native corporation.

5. Village township lands shall not be subject to taxation as long as the land is owned by the incorporated tribal group, but revenues from the land will be taxable, and the corporation may make "in lieu of tax" payments to local governments. Private interests in these lands, such as leaseholds, will be taxable to the private owner.

6. In order to facilitate future development, the village-as-a-municipal-corporation shall be separated from the village-as-an-incorporated-tribal-group. Among the differences between these concepts are the following: Whites may become resident members of the municipality; residence is not required for membership in the corporation; corporation membership in the course of time is to be translated into stock in a business corporation under Alaska law. A membership interest will be represented by 100 shares of stock which are not alienable by the first holder, except at death, and successor holders must be descendants of those on the original roll until 100 years have elapsed, when the shares shall be freely alienable, subject to any "close corporation" provisions in the articles and by-laws.

7. To avoid inflation of the rolls, a Native must be one-quarter blood to be enrolled. However, subject to a one-sixteenth statutory minimum, a corporation may extend benefits to those of lesser blood quanta.

8. The village shall have the option of whether to receive the grant in fee or in trust. If in trust, the village may choose the Secretary of the Interior as trustee, or subject to his concurrence in the appointment, may appoint any other person, including a regional or statewide Native corporation as trustee.

9. The village township land grant shall include all mineral rights.

10. The corporation, subject to limitation, may grant lands in fee to members, such as townsite lots, or to the local municipal corporation.

11. The village may elect to vest title to its lands in a regional corporation, either as trustee, or if all other member villages of the regional corporation do so, then in fee. The regional corporation may make the selection of lands. In this case the regional corporation may exercise the right to nominate and exercise preferential selection rights throughout the region. (Each village separately would otherwise be limited to its Native claim area.)

12. The village is encouraged to contract with the Alaska State Division of Lands for land management, with the village to retain policy control. The Division now has contracts with several boroughs for the management of borough lands.

13. Because many villages are on or are surrounded by reservations and withdrawn lands, the federal law must provide an effective means of obtaining some of these lands for township selection. Specifically, up to 100,000 acres of forest lands should be made available, subject to the approval of the Secretary of Agriculture. Also, villages should have a priority right of selection when reservations and withdrawals are canceled.

14. Villages on Indian reservations will obtain title to reservation lands, and the reservations will be terminated.

15. Native township grant lands will be considered federal lands for the purpose of allocating federal highway funds until such lands are in private ownership and are taxable.

16. Existing occupants of township grant lands will have preference rights in acquiring title thereto.

Offshore royalties

1. The offshore royalty program as suggested by Secretary Udall is acceptable as a part of an over-all settlement.

2. This program, as redrafted by your Task Force, includes:

(a) A ten percent (10%) royalty as a present property interest for not less than twenty-five (25) years.

(b) The royalty will be distributed in proportion to the final rolls, to three classes of recipients.

- (1) All villages (corporations), 75%.
- (2) All regional corporations, 20%.
- (3) A statewide Native corporation, 5%.

(c) The United States is committed to develop the outer continental shelf.

3. The royalty should not be used for per capita distribution in cash, but should be available for family plan distribution, scholarships and other direct benefit to members until the corporation or regional corporation becomes a pure business corporation. There should be a limit on such distributions to avoid dissipation of the assets of the corporation.

4. The royalty shall not be a substitute for state or federal government programs now in being.

5. If Congress fails to enact the offshore royalty program, then a substitute will be provided, such as a program of compensation for lands reserved or disposed of to third persons.

If possible, such a substitute program should not involve a claims procedure in the Indian Claims Commission or the Court of Claims. However, if there is no other acceptable alternative, the following guidelines have been suggested:

- (a) File in the Court of Claims.
- (b) Each group may file its own claim.
- (c) Each group may retain its own counsel.
- (d) Valuation for compensation shall be determined by the times of taking, not 1867.

(e) As to reserved and withdrawn lands, the United States may release such areas within six months after filing of the claims case. If it does not do so, that shall be the date of taking.

6. As to the offshore royalty, \$20,000,000 shall be provided by appropriation as in advance on royalties, to be repaid without interest from one-half of the actual royalties.

7. In computing the 25 year term, the following years are excluded:

- (a) Any year in which no moneys are received.
- (b) Any year in which less than \$1,000,000 is received.
- (c) Any year in which a portion of the proceeds goes to repay the advance royalty.

The effect of these exclusions is to guarantee receipt of at least \$65,000,000, assuming there are revenues.

8. The royalty continues after 25 years, until modified or terminated by Congress.

State-granted royalties

1. The grant of royalties by the state to the Natives shall be by act of the Alaska Legislature granting a present property right in perpetuity.

2. The state act shall include the following:

(a) Paragraphs 3-4 under "Offshore Royalties" are applicable to this program also.

(b) The royalty shall include all proceeds received by the state from leases or other contracts on state selected lands executed after the effective date of the act, which would therefore exclude revenues from existing leaseholds and contracts and from lands finally disposed of to third parties before that date.

(c) The royalty rate shall be 5%.

(d) The royalty shall be distributed in the same manner as the outer continental shelf royalties.

(e) The royalty shall extend to tide and submerged lands granted the state in the Statehood Act.

(f) The royalty does not extend to proceeds received by the state from federal leases, e.g., the 90% share received under the Statehood Act.

Surface rights

1. The existence of Native use and occupancy of lands should be recognized and may continue.

2. The surface use provisions of Secretary Udall's bill should be adapted to our proposal. The period should be lengthened to 100 years.

3. The right of surface use shall be terminable by act of the executive.

4. On the question of compensation for termination of surface rights, because of the desire to avoid litigation, compensation will not be necessary if a satisfactory overall settlement is reached.

Miscellaneous

1. The Alaska Native Claims Commission, as proposed by Secretary Udall's bill and by Attorney General Boyko, can be adapted to the settlement proposed as follows:

- (a) It would be called the Alaska Native Commission.
 - (b) Established by Federal Act, it would settle overlapping claims for such purposes as determining which village is entitled to select township lands in the disputed area. The Commission would be given jurisdiction to hear other similar disputes.
 - (c) The Commission would be an advisor to the Governor on the utilization of state lands subject to state royalty and could be an advisor to the Secretary of the Interior as to utilization of the outer continental shelf.
 - (d) After each village makes its initial selection the Commission might be given the duty of determining what areas are thereby opened to state selection.
 - (e) The Commission would not be given the power to manage the property or property rights granted to the villages, regional corporations or the statewide corporation. The Commission would not have the power of selection. If there is compensation (instead of an offshore royalty) the Commission would not hear these cases as this appears to add a cumbersome and time-consuming additional step in the litigation.
 - (f) The Commission would be given limited rights of approval or veto power over the several classes of corporations, for limited periods of time.
 - (g) The Commission would meet in Alaska.
 - (h) The Governor and statewide Native groups may suggest persons for membership on the Commission.
 - (i) The state could vest certain powers in the Commission.
 - (j) The Commission would consist of seven members, appointed by President, with the advice and consent of the Senate, all of whom would be Alaskans of five years residence, and a majority of whom would be Natives.
2. Certain Alaska cases are pending before the Indian Claims Commission and one case is before the Court of Claims. Our recommendations concerning these are:

Any claimant in court or before the Indian Claims Commission should have the option of withdrawing its claim and participating in the settlement.

If the claimant chooses to proceed with its claim there is strong sentiment that the claimant should nevertheless have full benefits under the settlement. However, any judgment proceeds received would be deducted from the outer continental shelf revenues which the claimant would otherwise receive.

3. The question of whether a person may be enrolled on the rolls of more than one village was raised and it was decided that each Native may choose "his village" but may be enrolled only once.

4. The Metlahkatla Indians are excluded from any benefits.

5. The enrollment of the urban Native would be upon the rolls of "his" village.

6. Generally, it appears desirable to strengthen the regional associations (regional corporations) as better and more effective leadership may be available at this level. Merger of villages into the regional corporation will be provided for. No more than 20 regional corporations will be allowed, which will cover all of Alaska, except the Annette Island Reservation.

7. Generally, the Native corporations will be organized under the Alaska Business Corporations Act, modified to meet the peculiar nature of these corporations, but anticipating gradual conversion into an ordinary business corporation.

However, local corporations may, if they desire, organize or continue to operate as corporations under the Indian Reorganization Act. Many such corporations already exist in Alaska, and some village groups undoubtedly would prefer to remain in that business status.

CONCLUSION

We have devoted many days of serious effort to this project. Many ideas and possible solutions have been deliberated. The above program represents our best judgment in reconciling the numerous needs and interests which must be accommodated in any adequate solution to the problem.

At all times we have endeavored to find solutions which are compatible with the needs of the federal and state governments, as well as the Natives of Alaska.

We are aware of the responsibility placed upon us. We feel that there is now a sound legislative format which can lead us safely out of the grave difficulties presented by the Native land claims problem.

We want to thank you for your concern and foresight in setting up this Task Force, so that we could participate directly in the process of policy making on a subject which affects the life of every Alaska Native. There has been failure in the past to recognize that the situation of the Alaska Native is a primary historic problem confronting the State of Alaska. It cannot be ignored without harm to the public interest of this State. A solution must be found now, as a lack of action will only bring a worse train of events in its wake.

We urge the adoption of this program as a proper and just solution on terms fair to all.

Respectfully,

WILLIE HENSLEY, *Chairman.*

Mr. HALEY. Thank you very much.

Who is next?

Mr. NOTT. Mr. John Borbridge, president of the Tlingit and Haida Indians.

STATEMENT OF JOHN BORBRIDGE, JR., PRESIDENT, CENTRAL COUNCIL OF TLINGIT AND HAIDA INDIANS OF ALASKA

Mr. BORBRIDGE. My name is John Borbridge, Jr. I am president of the Central Council of the Tlingit and Haida Indians of Alaska. I am also a director of the Alaska Federation of Natives.

I appear before this committee as a citizen of the United States. Also, I appear on behalf of other citizens of the United States who are natives of Alaska—persons of Indian, Eskimo, or Aleut descent.

I am proud to state my belief that there is no nation on the 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 your committee has, in the best traditions of our country, sought consistently to act fairly and equitably in matters pertaining to the original native occupants of the lands of this country.

When the Europeans discovered Alaska in the mid-18th century, the natives of Eskimo, Indian, and Aleut descent had been in occupancy of the several parts comprising all of the territory of Alaska for several thousands of years.

Today, the descendents of these native groups still continue to hold, by "rights of aboriginal occupancy," the great bulk of the same territory.

Today, Alaska, the last great frontier of our Nation, is the sole remaining part of the United States which includes extensive areas, comprising several hundred millions of acres, still held by native inhabitants based on rights of aboriginal occupancy. Aside, possibly, from small tracts which may have been missed, the "original" Indian or native "title" to all lands in all parts of the country has, over the years, been extinguished by the Federal Government, except in Alaska.

Now there are a number of bills pending before Congress which propose to deal with the extensive occupancy rights of the native groups of Alaska.

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 a 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 land 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 U.S. Court of Claims and the Indian Claims Commission, to hear and determine the claims of injured native tribes or groups.

In considering the current legislative proposals to deal with the land occupancy rights of the Alaska native groups, it is worth while 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 period 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, have conservatively been estimated to exceed \$800 million—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.

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.

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 advisers, 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 Congressman Aspinall owned a 5,000-acre tract of mountain lands in his home State of Colorado 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.

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 Edmondson, 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 of 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.

The natives of Alaska are aware that efforts to work out fair and equitable solutions of their occupancy rights are fraught with great complexities and conflicting pressures. We understand that accommodations must be made in the national interest and in the interest of the State of Alaska.

I believe that the natives of Alaska are prepared to make reasonable accommodations. This is evidenced by the substantive proposals which were drafted with the participation of the native leaders and have been incorporated in H.R. 15049. This bill was drafted under great pressure of time. We recognize the need for technical amendments.

We reject H.R. 17129 as illiberal and as misconceived in many important respects.

Finally, may I say that we trust and believe that, in accordance with the Federal policy which has prevailed throughout the history of our Nation, and as a matter of fairness and equity, this committee will seek and obtain a consensus of the native groups of Alaska before approving any acquisition or disposition of the native lands.

This concludes, Mr. Chairman, the formal testimony.

Mr. HALEY. Thank you very much. Let me explain our situation, as I see it.

Under the rules of our committee when this bell rings, which it will in a minute or two, the committee will have to rise—you hear the bells now—and what we will attempt to do, and it will take unanimous consent, is to go to the floor of the House and ask for unanimous consent to sit during general debate today on the bills on the agenda of the House. I hope we can obtain that. I hope that all the members who possibly can will try to be back here at 2 o'clock, and we will continue the hearings and hear the other witnesses this afternoon, or if necessary, until we can dispose of the testimony of the people who have come here from the great State of Alaska to present their case

to the Congress. So if you will be governed by that and try to be back here at 2 o'clock, we will continue the hearings.

The committee stands in recess.

(Whereupon, at 11:45 a.m., the committee was recessed to reconvene at 2 o'clock, the same day.)

AFTERNOON SESSION

Mr. HALEY. The committee will be in order.

STATEMENT OF CLIFF GROH, ATTORNEY, REPRESENTING THE ALASKA FEDERATION OF NATIVES

Mr. GROH. Mr. Chairman, my name is Clifford Groh. I am an attorney for the Alaska Federation of Natives. I would request that my statement be placed in the record. I will not read it. I will only make this comment in connection with a question that some of the committee members have raised.

It is our position that we presently have Indian title to all of the land in Alaska. I recognize that one can take the position that even if we have title that Indian title must be recognized by Congress. Since we believe that we do have Indian title to all of Alaska, a legislative settlement of this particular problem is, hopefully, the only solution. The extended litigation that would go on otherwise we don't believe would be of any benefit to anyone. I have no other comment, Mr. Chairman.

Mr. HALEY. Without objection, the statement will be made a part of the record at this point.

(The statement referred to follows:)

STATEMENT OF CLIFFORD J. GROH, ATTORNEY, ALASKA FEDERATION OF NATIVES

Mr. Chairman, my name is Clifford J. Groh. I have practiced law in Anchorage for 16 years and am a partner in the firm of McCutcheon, Groh, & Benkert. I was formerly an assistant U.S. attorney and have served on the Anchorage City Council for 4 years, the Anchorage Borough Assembly for 3 years, and the Anchorage School Board for 4 years. I am also a past president of the Alaska Bar Association.

Since January 1966 I have been active in representing various native groups. Our firm now represents the following native associations and villages:

- (1) Native village of Tyonek.
- (2) Native village of Eklutna.
- (3) Kenai Native Association.
- (4) Seward Peninsula Native Association (Nome).
- (5) Bristol Bay Native Association (Dillingham).
- (6) Village Council President's Association (Bethel).
- (7) Chugach Native Association (Cordova).
- (8) Copper River Native Association.
- (9) Alaska Peninsula Native Association.
- (10) St. Lawrence Island eskimos.
- (11) Village of Unalakleet.

I have attended and participated in all of the statewide meetings of the Alaska Federation of Natives and all of the Governor's land claims task force meetings.

The native people have inhabited Alaska, as one court stated, "From time whereof the memory of man runneth not to the contrary." The first northern Europeans arrived in 1741, and from then until 1867, treated Alaska as a hunting ground for valuable furs. The Russians never attempted to exercise any dominion over 99 percent of Alaska's 365 million acres. The native people were not conquered and most of them never knew that the Russians purported to "own" Alaska and subsequently "sell" it to someone else.

The Treaty of Cession, dated March 30, 1867, and ratified by Congress, affords some insight into the status of Alaska's natives at that time. Article III provides: "The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years; but if they should prefer to remain in the ceded territory, they with the exception of uncivilized native tribes, shall be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country."

The term "uncivilized tribes" mentioned in article III refers to those natives who were "independent" or "not wholly dependent" as those terms are defined in the third charter of the Russian-American Co. I will not attempt to make a classification as to all the particular native groups in Alaska but will merely say that the "civilized tribes" are limited to the Aleutian chain, lower Alaska Peninsula, and lower Cook Inlet. In ratifying the treaty, it was the obvious intention of Congress to grant the "civilized" natives the same property rights as all other American citizens and to treat the "uncivilized tribes" the same as all other aboriginal tribes of the United States. This equal treatment should also apply to their rights in the land.

One other brief comment on the treaty of cession. Some persons have contended that because of article VI, which provided for the payment of an additional \$200,000 to the Russians, Indian title to lands in Alaska has been extinguished. That position is not valid because the actual reason for the additional \$200,000 payment, as discussed in *Kincaid v. U.S.*, 150 U.S. 483 (1893), was to compensate the Russian-American Co. for its possible vested property rights.

It is undisputed that the Alaska natives have used and occupied certain lands to the exclusion of other people for many years. That continuous and exclusive use, unless extinguished, is sufficient to establish aboriginal title. It is also undisputed that Congress has never extinguished the aboriginal rights of the natives, Indian title, when proved, must be accorded proper respect.

There has been no extinguishment, to quote the Supreme Court in *United States v. Santa Fe Pacific R.R.*, 314 U.S. 339 at 347, either " * * * by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise."

We do not believe that Indian title depends upon recognition or approval. It is based on aboriginal possession. Once established, it endures until extinguished or abandoned. See *Lipan Apache Tribe v. The United States*, U.S. Court of Claims, 15 Ind. Cl. Comm. 532.

Legislatively and judicially, Indian title in Alaska has been preserved. Let us first look at the legislative history.

The act of May 17, 1884, in section 8, provides in part "that the Indians or other persons in said district (Alaska) 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 * * *" (matter in parentheses supplied).

The act of June 6, 1900, 31 Stat. 321, in section 27 has a similar provision. The Alaska statehood act, Public Law 85-508 (1958), in section 4 states:

"As a compact with the United States said State and its people do agree and declare that they forever disclaim all right and title to any lands or other property not granted or confirmed to the State or its political subdivision by or under the authority of this Act, the right or title to which is held by the United States or is subject to disposition by the United States, and to any lands or other property (including fishing rights), the right or title to which may be held by any Indians, Eskimos, or Aleuts (hereinafter called natives) or is held by the United States in trust for said natives; that all such lands or other property (including fishing rights), the right or title to which may be held by said natives or is held by the United States in trust for said natives, shall be and remain under the absolute jurisdiction and control of the United States until disposed of under its authority, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation: Provided, that nothing contained in this Act shall recognize, deny, enlarge, impair, or otherwise affect any claim against the United States, and any such claim shall be governed by the laws of the United States applicable thereto: and nothing in this Act is intended or shall be con-

strued as a finding, interpretation, or construction by the Congress that any law applicable thereto authorizes, establishes, recognizes, or confirms the validity or invalidity of any such claim, and the determination of the applicability or effect of any law to any such claim shall be unaffected by anything in this Act: And provided further, That no taxes shall be imposed by said State upon any lands or other property now owned or hereafter acquired by the United States or which, as hereinabove set forth, may belong to said natives, except to such extent as the Congress has prescribed or may hereafter prescribe, and except when held by individual natives in fee without restrictions on alienation."

Article XII, section 12, of the constitution for the State of Alaska has within it a disclaimer by the State of Alaska and its people which conforms to section 4 of the Statehood act. All of the above acts consistently reiterate our position on Indian title.

From a judicial standpoint, there have been a number of decisions supporting our stand. The cases usually cited in opposition to our view are *Miller v. U.S.*, 159 F. 2d 997 (1947), and *Tee-Hit-Ton Indians v. U.S.*, 348 U.S. 272. We believe both of those cases have been impliedly overruled. However, the ultimate and final answer to the question of whether Indian title exists in Alaska is the case of the *Tlingit-Haida Indians v. The U.S.*, docket No. 47900, U.S. Court of Claims, decided January 1968. There the court held that the Tlingit-Haidas have Indian title to 2,600,000 acres of land, which has not been extinguished. If that group has Indian title, why do not the rest of the Alaskan natives have Indian title? None can demonstrate that the natives of western Alaska should be treated in some manner different from that afforded to their southeastern brothers and all other aboriginal people.

Everyone in Alaska knows of the problems confronting our native people. Others will go into more detail but they involve (1) lack of employment, (2) grossly poor housing, (3) poor education in quantity and quality, and (4) complete absence of public facilities such as water, sewer, electricity, etc. We also know that many of our native people have never had an opportunity to escape the poverty that engulfs them. This has not been the result of anyone's campaign. If given an opportunity, I am confident that they can and will develop Alaska. Their leadership is here and you have observed them. I am proud to represent them and know that after this legislation passes, they will maintain the faith that you have placed in them.

STATEMENT OF BARRY JACKSON, ALASKA FEDERATION OF NATIVES

Mr. JACKSON. My summary will be essentially a digest of my statement.

Mr. ASPINALL. Mr. Chairman, I object to this kind of a file being a part of the record. The real statement of Mr. Jackson, whatever it may be, will be fine, but the rest of the statement will be placed in the file.

Mr. HALEY. The statement will be received and I will ask the professional staff to examine it at a later date and what is pertinent to the matter under consideration will be made a part of the record. The rest will be made a part of the file.

Mr. ASPINALL. Just a minute, Mr. Chairman.

Some people get the idea that we have our files all cluttered up with editorials, newspapers, and magazines. We never permit this sort of material to come into our files. The Chair will instruct the staff to keep that material out no matter how pertinent it is.

Mr. HALEY. I might say to my colleague from Colorado that was thoroughly understood.

Mr. ASPINALL. Thank you very much.

(The statement referred to follows:)

STATEMENT OF BARRY W. JACKSON

Mr. Chairman, my name is Barry W. Jackson. I am a partner in the law firm of Jackson & Fenton, 527 4th Avenue, Fairbanks, Alaska. I appear as an attorney for the Alaska Federation of Natives and as attorney for a number of Indian organizations in the Interior of Alaska, including the Tanana Chiefs Conference, the Native Village of Minto, the Native Village of Tanacross, the Nenana Native Council, and the Fairbanks Native Association. My testimony will be directed generally at legal matters, although I will have to discuss policy also.

Generally, I will discuss the following:

1. State of Alaska vs. Udall, the test case on the land freeze.
2. The Task Force Proposal, S. 2906/H.R. 15049 and C.S. HB 672 (Finance).
3. Then I will present the Alaska Federation of Natives Proposal, which are the amendments proposed by the AFN to Secretary Udall's proposal of April 30, 1968, together with a Commentary on the Amendments.

As to my qualifications, I have been a resident of Fairbanks since February 10, 1958, following my graduation from Stanford Law School. Following my admission to the Alaska Bar in early 1959, I terminated my clerkship under U.S. District Judge Vernon D. Forbes and opened an office for the private practice of law.

Except for three and one-half years as City Attorney for Fairbanks, I have been engaged in private practice ever since. I am admitted to practice before the usual state and federal courts including the U.S. Supreme Court and I am a member of the usual number of bar associations.

In 1965 and 1966 I served as a member of the Alaska House of Representatives, where I was a member of the House Finance Committee.

In the winter of 1965 I became involved with the Minto land claim, which was the cause celebre, originating almost five years ago and which has led to these hearings here today. Although the Village of Minto came to me as an attorney, I declined to accept the engagement in order to avoid conflict of interest problems, and Mrs. Mary Alice Miller, now a state district judge in Fairbanks, was retained. In 1966, after I decided not to file for re-election to the Alaska Legislature, Minto again requested my services and Mrs. Miller graciously agreed to the substitution.

I claim no particular expertise in Indian Law, except that which is gained from my experience to date. However, as I have had some experience in drafting ordinances and legislation, I drafted the AFN Proposal, also, much of S. 2906/H.R. 15049, and the state bill as proposed by Governor Hickel's Task Force on Native Land Claims, is, for good or ill, my translation into statutory language of the policy decisions reached by the Task Force. However, I have relied as much as possible on the work of other draftsmen, including the Statehood Act and S. 1964, among others.

At this point I would like to note that I have attached to my statement (after the AFN Proposal and the Commentary thereon):

- (A) Commentary to Federal Alaska Native Claims Act of 1968, Draft of January 24, 1968 (now introduced as S. 2906/H.R. 15049),
- (B) Task Force Commentary on State Alaska Native Claims Act, Draft of January 24, 1968.
- (C) Proposed State Bill.
- (D) The state bill as adopted, CSHB 672 (Finance), Chap. —, S.L.A. 1968.
- (E) Native Lands Claims, *Alaska Review of Business and Economic Conditions*, University of Alaska, Institute of Social, Economic and Government Research, Volume IV, No. 6,
- (F) Extract of Testimony of State Representative John Sackett, President, Tanana Chiefs Conference, and Ruby Tansy, Secretary, Tanana Chiefs Conference, to Senate Committee on Interior and Insular Affairs, Anchorage, February 8-10, 1968.
- (G) Democratic Platform Plank on Native Land Claims, Central District Democratic Convention, December 9 and 10, 1967, and
- (H) Republican State Convention Resolution No. 19, September 16-18, 1966.

These documents are self-explanatory and I will not comment further on them. However, as a principal draftsman of the AFN Proposal, of S. 2906/H.R. 15049 and the state bill and the commentaries thereon. I am prepared to answer questions on these documents or to review with you these proposals generally or in detail.

A section-by-section analysis of the proposed state bill has not been prepared. However, the attached commentary gives a good summary of the purposes of this legislation as originally drafted by the task force, and the final form as adopted retained most of the essential features of the task force draft.

State Representative Willie Hensley, Chairman of the Task Force, will introduce the Report of the Task Force to Governor Hickel which the legislative proposals of the task force were intended to implement.

1. *State of Alaska vs. Udall, et al.*

On February 10, 1967, the State of Alaska filed a suit against Stewart Udall, the Secretary of the Interior, in the U.S. District Court at Anchorage, Alaska. In its complaint the State sought, among other things, a judgment requiring the Secretary of the Interior to issue a patent to the State to certain lands claimed by the natives of Nenana but selected by the State pursuant to its authority to select certain lands under the Alaska Statehood Act. In its complaint the State alleged that the Secretary of the Interior had frozen all further land dispositions because of native land claims and that this action by the Secretary was contrary to law.

The U.S. Attorney's office filed a motion to dismiss the complaint on the grounds that the suit was in effect a suit against the United States and that the United States could not be sued without its consent. In addition, the United States stated that the natives of Nenana were an indispensable party and could not be sued without the consent of Congress. The court on October 13, 1967, denied the motion of the United States.

Subsequently, the U.S. filed its answer to the complaint and a pretrial conference was held on January 5, 1968. At the conference the United States indicated that it would stand upon its original position and that undoubtedly it could stipulate to the facts with the State of Alaska. The court invited all parties to stipulate to the facts and for the State to file a motion for summary judgment.

On January 10, 1968, the court permitted the Native Village of Nenana to intervene in the suit and to file its answer. The Native Village of Nenana's answer asserted that it was the rightful owner and possessor of the land in question and not the United States. (Nenana has never received a hearing on the merits of the factual issues.)

The State has now moved for summary judgment and the motion has been fully briefed by the parties. It is expected that the District Court will rule generally in favor of the plaintiff and against the contentions of both the defendant and the intervenor, except that Nenana may obtain hearing on the factual issues of actual use and occupancy.

The reason for ruling against the contentions of the intervenor will probably be based largely upon the United States Supreme Court's decision in *Tee-Hit-Ton Indians vs. United States* 384 U.S. 272 (1955). In that case the court in a five-to-three decision ruled that an Alaskan Indian clan, although it may have a valid aboriginal title, had no compensable interest in the land used and occupied by it absent specific Congressional legislation to the contrary. The Native Village of Nenana is contending that this decision was incorrect and is seeking to have the Supreme Court reverse itself. There is some possibility of this happening in view of the change in the make-up of the court since 1955, and in view of the failure of Congress to settle the land claims.

In the event the United States Supreme Court reverses itself, then the interest of the Native Village of Nenana and every other Alaska native village in the land used, occupied and claimed by it will be compensable. After a Supreme Court decision, regardless of the disposition of the due process issue, the usual course would be that, after securing a jurisdictional act, there would be a separate lawsuit filed by each of over two hundred villages seeking compensation or title for land used and occupied by it. In the past other such lawsuits have taken many, many years to conclude. This is not a suitable solution to native land claims. The problem is here and now and should not await a solution thirty or forty years from now.

For these reasons it is most imperative that the native land claims legislation that is adopted avoid court proceedings. In the interest of justice to the natives, the problem should be resolved on the basis of outright grants of land and money by Congress to the natives. And that is what Governor Hickel's Task Force on Native Land Claims has proposed.

2. *The task force proposal (S. 2906/H.R. 15049 CSHB 672 (Finance))*

The task force was formed by Governor Hickel at an opportune time in the fall of 1967. He saw the need, he made the commitment for a solution to the land claims problem. At about the same time, Attorney General Boyko became convinced that there was a need for early solution and a generous solution. Secretary Udall, about the same time, came to Alaska and made a suggestion that the natives of Alaska do not need 270 million acres, or whatever it is they claim, but that they need some land and they need some money and that the Outer Continental Shelf would be an appropriate source of some money for the natives.

At about the same time the Fairbanks Native Association, which I also represent, reviewed our problem and decided that what we needed was not endless litigation, but an early administrative type solution and we came up with such a proposal.

That task force, which was then formed of about 40 people, representing all areas of the State, including the board of directors of the Alaska Federation of Natives, met many times for many days. They formed a drafting committee of nine members. The drafting committee worked with myself and three other attorneys, Roger Conner, then of Juneau, Cliff Groh, Anchorage, as well as Fred Paul of Seattle. We attempted to put together for the first time, not what the natives wanted, not what Secretary Udall and not what the Governor wanted, but a proposal that perhaps all could accept, that all could live with. In the finer sense of the word, it was an attempt to come to reason together, as the President sometimes says, to accommodate the conflicting interests that are involved here and to create some legislation that would be meaningful for years to come. I am not saying that what we have come up with is the answer. We do suggest that it forms a basis for consideration by your committee and we think that it offers a general pattern which would be helpful and which offers a possible early solution of the land claims.

The proposal that the task force came up with is essentially in four parts.

First, a grant of 40 million acres of land in fee or in trust to the village groups. This compares to the grant in the Statehood Act of the State of Alaska of about 102½ million acres general grant land, plus some other lands in addition. Secretary Udall's bill conceivably could allowed the natives to get as much as 12 or 12½ million acres. In practice, we suspected that the actual amount of land that would be granted would be in the neighborhood of 6 million acres. This would have been totally unacceptable to the natives of Alaska.

On the other hand, while the natives of Alaska believe essentially that they own the land they now occupy and use, they recognize that without the help of Congress they can get title or useful title to none of the land. Forty million acres, we felt, was a reasonable compromise. It is about as little as the native leaders of Alaska feel that they can accept for their own people and I think you recognize that if the native leaders here that have a responsibility settle for too small an amount there is a very real danger that more radical leaders will appear and disrupt Alaska's society. So far it has not happened, but there are people who take advantage of this situation. We do feel that 40 million acres, if the villages can get the land which is most important to them, this much can satisfy them provided they can continue to use the surface, for aboriginal use of, lands around the village which they do not get title to.

The *second* part of the proposal is a 10 percent royalty interest as proposed by Secretary Udall.

The Task Force recognized that his proposal, the Outer Continental Shelf Royalty, may not be politically possible. The Task Force suggested, in that event, that as an alternative, there be some type of settlement of money which does not involve litigation, which does not involve the claims process. We would like to stay away from litigation.

The *third* part of the settlement is a grant by the State of Alaska of a 5 percent royalty in State granted land which the State has acquired from the United States. Now, in order to avoid any impact upon the State Treasury today, we have asked that this royalty from State lands, revenues from State lands, not be applicable to any existing sources. We prepared a State bill which includes that State royalty, and which has been adopted, with amendments, by the Legislature.

The *fourth* part of the Task Force proposal is the scheme for administering the lands and money. This is as important as the land and money itself. Is the land and money to be squandered in per capita payments? Is it to be eaten up in bureaucratic administrative costs?

We propose to avoid both extremes. (The Task Force proposals are largely contained in Chapter —, S.L.A. 1968.) Alaska is a little unusual because the natives in Alaska are very vehemently antireservation, they have never been in favor of reservations and are not today. They would like to participate as fully as possible in the life of the State and the society. So one of the things we have done is that we have separated the native village as a municipal corporation from the native village as an incorporated tribal enterprise. And the lands and the money will be going to the incorporated tribal entity which will be gradually transformed into an ordinary business corporation with shares that are fairly alienable. This is a gradual process. It is controlled by the Alaska native commission. We have eliminated per capita grants as such.

We have said, however, that the native corporation may grant to the individual members townsite lots, fishcamp sites, and so on, but not more than 10 percent of the land may be distributed in this manner and not more than 160 acres to any one person or family. We have also said that they may make what we call family plan distribution, but that not more than 20 percent of the capital of the corporation may be distributed in family-plan type distributions. Now this, of course, is a type of per capita distribution. We recognize that, but the experience with Tyonek has been that this can be a very helpful method of improving the status of the members of the tribe. Generally, however, the State law requires that the capital of the corporation be kept intact to be invested in business enterprises, and that in the long run, over the long term, the members of the corporation will benefit primarily by being stockholders of the business enterprise, receiving dividends. Hopefully the business enterprise will make certain that natives are hired in positions of responsibility. The Tyoneks; for example, own a construction company which built a BIA building which is also owned by the Tyoneks. They own a title company in Anchorage; they have a major interest in a utility company in Anchorage. These enterprises in the long term will be of benefit to individual members of the tribe. We hope to use the capital in this fashion. We hope to use the land in this fashion and not as a reservation.

Now, we are trying to get away from the BIA, frankly, and from the Secretary of the Interior and accomplish a transition into American society. Also we want to preserve for the Indians as well as for the whites the mobility which exists in American society today. We are trying to build in provisions which will prevent us from having our villages "frozen in history." (See the extracts of the statements of John Sackett and Ruby Tansy which are attached as Attachment F.)

We have natives trained as electronic technicians who are working in Australia and in Vietnam. Educated Alaska natives have become just as highly mobile as other Americans, and they should be permitted to be so, and at the same time be permitted to share in their patrimony.

We have built in provisions attempting to do this in the State legislation. It may be that after review by your committee staff, you will want to have some of these provisions incorporated in the Federal act to make certain that it is not open to complete control by the Alaska State Legislature. We put them in the State act because we are attempting to get away from Federal control and that of the Secretary of the Interior.

At the same time, believe me, we have many very highly competent BIA representatives in this State. They have done a great deal within the limits of their ability. But the problem is that the system is basically bad and the natives of Alaska have come to believe this, and they think, by and large, the employees of the BIA have come to believe this also. Now, the Task Force proposal is an attempt to make some changes; it is an attempt to look a hundred years ahead and provide the transition and to provide for as early a transition as possible.

I would like to briefly discuss the problem of the land freeze and how we have tried to solve this. S. 2906 in effect solves it as follows: First of all, even before the Federal act is passed, or within a few months after the Federal act is passed, each native group will indicate to the Secretary of the Interior the lands which are more important to them, which they would like to gain title to. The Secretary then makes a temporary withdrawal of these lands, and the total amount of withdrawal cannot exceed 40 million acres.

As soon as this withdrawal is accomplished, which shall be not more than 6 months after the passage of the Federal act, then all of the remaining land in Alaska becomes open again for State selection or entry by other parties under the public land laws. This is similar to the approach taken in Secretary Udall's latest proposal, which we find basically acceptable. (For the approach suggested

by the State, which is not working out, see p. 5 of Commentary on AFN Proposal, attached.)

We have endeavored to find some way of lifting the freeze at an earlier date and still protect the natives' rights to their land or at least to the land that they consider most important. We have simply not been able to work out any mechanics for doing so. This is the fastest method that we have been able to come up with.

Finally, I would like to note that we do not intend to disturb third party interests that now exist or which exist at the time that the Federal act is passed. I think this is very important because there has been a lot of concern on the part of many people that property interests—titles—were going to be disturbed. They will not be.

3. AFN proposal (amendments to Secretary Udall's proposal of April 30, 1968)

While Alaska Native Leaders were deeply distressed by Secretary Udall's proposal of April 30, 1968, now before the Congress as S. 3586/H.R. 17129, the Alaska Federation of Natives has decided to respond positively by preparing amendments to the administration bill, rather than insisting on the Task Force proposal, S. 2906/H.R. 15049. And with appropriate amendments and future modification of the state law, CSHB 672 (Finance), the best and most important features of the Task Force proposal can be melded with the administration bill to produce a compromise that will be acceptable to the great majority of Alaska's Natives.

The draft, which follows, italicizes proposed new language and language to be stricken is in brackets, in order to facilitate understanding of our proposed amendments.

These are not all of the amendments we would like to make. The others are not offered at this time in order to not clutter up the record and to facilitate passage at this session of Congress, if by some near miracle this could be possible.

Following the draft is a Commentary, explaining the AFN Proposal.

Conclusion

Mr. Chairman, the natives of Alaska have been waiting since 1884 for Congress to provide a means for obtaining title to the lands they occupy or claim. They rightfully believe that this land is theirs, but their leaders are prepared to adjust their claims to the land in order to accommodate the interests of the State and its people and the interests of the United States, and in order to use their land claims as a means of self-help and self-development. It has been said that nothing is so powerful as an idea whose time has come. Gentlemen, the time has come for a legislative settlement of the land claims of Alaska's native people on terms fair, generous and equitable to all. The native leaders of Alaska have designed such a settlement, and we ask that you take this opportunity for creative law making, to do justice for Alaska's natives, as they would for you.

Thank you.

AFN PROPOSAL

Amendments Proposed by the Alaska Federation of Natives to Secretary Udall's Proposal of April 30, 1968

A BILL To provide for the settlement of certain land claims of Alaska Natives, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Native Claims Settlement Act of 1968."

DEFINITIONS

SEC. 2. For the purposes of this Act, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "Native" means an Alaska Indian, Eskimo, or Aleut *including but not limited to any Native whose adoptive parent is not a Native of at least one-fourth degree Alaska Indian, Eskimo, or Aleut blood, or a combination thereof or, in the absence of proof of a minimum blood quantum, who is regarded as Native by the Native group in which he claims enrollment and whose father or mother was regarded as Native by that or any other Native group;* and

(c) "Native group" means any *incorporated or unincorporated* tribe, band, clan, village, community, or association in Alaska composed of twenty-five or more eligible Natives and approved by the **Secretary.** *Commission, including those incorporated under A.S. 38.30.190 of the laws of Alaska.*

DECLARATION OF POLICY

SEC. 3. Congress finds and declares that there is an immediate need for a fair and just settlement of all claims by Natives of Alaska by providing (a) a grant to each Native group of title to their village sites that are now being used by said group and to additional lands in the vicinity of the villages that will be needed for reasonable community expansion to fulfill future economic and social requirements, (b) a reasonable payment to Native groups for the purpose of enhancing the present and future welfare of the Natives in Alaska, and (c) provision for Native hunting, fishing, trapping, and berry picking, within Federal lands not granted to the Native groups; and that it is the purpose of this Act to provide such a settlement.

DECLARATION OF SETTLEMENT

SEC. 4. The provisions of this Act shall be regarded as full and final settlement of any and all claims against the United States based upon aboriginal right, title, use, or occupancy of lands in Alaska by Natives or arising under the Act of May 17, 1884 (23 Stat. 24), or the Act of June 6, 1900 (31 Stat. 321), **including** *excepting only* claims pending before the Indian Claims Commission or the Court of Claims, by previous authorization of Congress, **and not finalized by** said Commission **on the date of enactment of this Act.**

GRANT OF LANDS

SEC. 5. (a) Subject to the provisions of this Act, the Secretary, upon his own initiative and without application, is authorized to grant, **in trust,** to each Native group, subject to valid existing rights and if not *within a National Park or Monument, or, subject to Sec. 17, National Forest* **withdrawn for purposes unrelated to Native use or the administration of Native affairs,** (1) title to the village site or sites now occupied by such group, and (2) title to such additional lands in the *area used and occupied by such group* **vicinity of such site or sites** which, in his judgment, would contribute significant **ly** support for **to the** reasonable community expansion *by fulfilling* **to fulfill** future economic and social requirements, 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 granted. *A Native group or trustee therefor may not sell, lease for more than one year, or otherwise dispose of any lands granted to it except in accord with a land use plan of the group submitted to and approved by the Commission.* **Provided, That,** at any time during the term of the trust, the Secretary, upon application of the Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted under this subsection to said group. **Such grant may include a grant of title to noncontiguous land such as lands being used and occupied by such Natives or suitable for use for burial grounds, airfields, water supply, village sites, agriculture, grazing, recreation, mining, oil and gas fields, industry, hunting and fishing camps, and dock or boat-launching sites. that are not withdrawn for other purposes.** In the case of Native villages in locations where there are not sufficient additional lands in Federal ownership to permit the Secretary to make the grant of additional lands contemplated by this subsection, the Secretary may convey other lands *(that are not withdrawn for other purposes)* in lieu thereof but subject to the same conditions and limitations that apply to conveyances of land within the *area used and occupied by the group.* **vicinity of a village.**

(b) In no case may the grant of land to a Native group under this section exceed *three thousand two hundred acres or be less than three hundred twenty acres per person enrolled on the rolls of the Native group.* **fifty thousand acres.**

(c) *The Secretary shall grant, in the aggregate, forty million acres under this section to the Native groups.* **The provisions of this section shall not apply to Native groups who are beneficiaries of the judgment recovered by the Tlingit and Haida Indians in Court of Claims Docket No. 47,900.**

(d) *Prior to making a grant to a Native group, the Secretary shall consult with the group and give the group an opportunity to nominate lands for inclusion in the grant.*

RESERVATIONS AND RESERVES

SEC. 6. (a) The areas of lands and waters heretofore reserved and set aside by Executive or Secretarial order for the use of Native groups of Akutan, Diomedes, Karluk, Unalakleet, Venetie, and Wales shall be granted **[in trust]** to said groups.

(b) To the extent such areas of land granted by this section are smaller than the areas of land that could be granted to each group under the terms of section 5 of this Act, additional lands may be granted to the group, **[in trust]** by the Secretary: *Provided*, **[That the total grant]** such additional grant shall **[not exceed fifty thousand acres]** be subject to the conditions and limitations of Section 5 of this Act.

(c) **[b]** The various reserves set aside by Executive or Secretarial order for Native use or for administration of Native affairs, including those created under authority of the Act of May 31, 1938 (52 Stat. 593), shall be revoked, subject to any valid existing rights of any non-Natives, by the grant of title **[in trust]** by the Secretary of **[up to fifty thousand acres of]** the land now covered by such order to the Native group using or occupying said lands on the date of enactment of this Act.

[(c)] At any time during the term of the trust covering lands granted under this section, the Secretary, upon application of a Native group and upon the approval by him of a land use plan submitted by said group, shall terminate the trust for all or any part of the lands granted to said groups.

(d) **[(c)]** A native group or trustee therefor may not sell, lease for more than one year, or otherwise dispose of any lands granted to it under this section except in accord with a land use plan of the group submitted to and approved by the commission.

(e) **[d]** The grant of lands under this section now covered by an Executive or Secretarial order shall include the underlying mineral deposits.

[INTERIM] ADMINISTRATION UNDER PUBLIC LAND LAWS

SEC. 7. (a) As soon as possible after the effective date of this Act, the Secretary shall, subject to valid existing rights withdraw from all forms of appropriation under any of the public land laws, including without limitation selection by the State of Alaska under the Statehood Act of July 7, 1958 (72 Stat. 339), any lands which he believes may be subject to a grant to a Native group pursuant to this Act, but not to exceed a total of 20 million acres. Such withdrawals shall be revoked as rapidly as grants to Native groups permit. A State selection of lands that are withdrawn shall not be approved, regardless of whether the selection was initiated before or after the withdrawal, until the withdrawal is revoked.

(b) A Native claim based on use and occupancy of unwithdrawn land shall not be the basis for the rejection of State selections or other applications or claims under the public land laws.

(c) **[(Either before withdrawing lands under this section or before)]** Before granting a patent pursuant to this Act, the Secretary shall consult with the Secretary of Defense with respect to the effect of the **[withdrawal or]** grant on the security of the United States**[,]**, and with the appropriate Secretary, as to withdrawn lands, with respect to the effect of the grant on the purposes of the withdrawal.

(d) Nothing in this Act shall affect the rights of Natives as citizens to acquire public lands of the United States under the Native Allotment Act of May 17, 1906 (34 Stat. 197), as amended (48 U.S.C. 357), or the provisions of other applicable statutes.

(e) Lands granted pursuant to this Act shall, so long as the fee therein **[they]** remains not subject to State or local taxes on real estate, continue to be regarded as public lands for the purpose of computing the Federal share of any highway project pursuant to title 23 of the United States Code, as amended and supplemented. *Lands granted pursuant to this act shall, so long as the fee therein remains not subject to State or local taxes on real estate and so long as there are no revenues from the lands, continue to receive forest fire protection services from the United States at no cost.*

(f) Any lands granted in fee or in trust under this Act shall be subject to the right of the Secretary to issue and enforce for the protection of migratory birds regulations in accordance with the provisions of the Migratory Bird Treaty Act, as amended.

(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.

(h) Prior to conveyance of land under this Act, the Secretary shall have its exterior boundaries surveyed. This requirement for survey shall be satisfied without continuous marking of the line, but by establishment of monuments along all the boundaries, except meander courses, by electronic measurement or other means, at intervals of not more than six thousand feet, or by extension of the rectangular system of surveys over the areas conveyed. Conveyances of surveyed lands shall be in accordance with the plats of survey, and those for unsurveyed lands shall, following survey, be so conformed.

TRUSTS, DISPOSITION

SEC. 8. (a) *Lands granted to or selected by a native group under this Act shall be patented, at the option of the native group, to the native group in fee or in fee to a trustee for the native group.* [Title to land granted under this Act to a Native group in trust shall be held by the United States in trust, acting through the Secretary as trustee. The term of a trust established by, or pursuant to, this section shall not exceed twenty five years from the date of any grant made under this Act, and when the trust terminates it shall be liquidated in accordance with the terms of the trust instrument or as prescribed by the Secretary, if there is no trust instrument, or as prescribed in section 5 and 6 of this Act. Whenever a distribution of capital or income of the trust is made to the Native group, the finding of the Secretary as to the qualified recipients shall be final and conclusive.] *Title to lands selected by a native group which chooses to have title held by a trustee shall be held by a trustee or board of trustees selected by the native group, which may be the statewide native economic improvement corporation, the appropriate regional corporation, or a board composed of individual trustees approved by the Commission.*

The term of a trust established pursuant to this section shall not exceed twenty-five years, and when the trust expires title to the corpus of the trust shall vest in the native group.

The native group may choose to have all moneys received by such group held by the trustee. A trustee who receives a conveyance or moneys under this section shall be subject to the laws of Alaska governing the execution of trusts, and shall have the powers and duties set forth in the deed of trust, including without limitation subdivision, management, and disposal of the lands, except the mineral interests in lands granted under Section 5 of this Act, or moneys, investment and reinvestment of the proceeds, and distribution of income or capital of the trust to the members of the beneficiary.

(b) [The Secretary, as trustee, under this Act shall have the powers and duties set forth in the deed of trust, including without limitation, subdivision, management, and disposal by sale, lease, or other method, of the lands or interests therein, except the mineral interests in lands granted under section 5 of this Act, investment and reinvestment of the proceeds, and distribution of income or capital of the trust to the Native group and he shall not be subject to the laws of Alaska governing the execution of trusts.] In the disposal of any tract of land under the trust, the group or trustee therefor shall give a right of first refusal to the occupant thereof. The title to land conveyed [by the trustee] to a Native shall *not OR at the option of the Native* be subject to the provisions of section 1 of the Act of May 25, 1926 (44 Stat. 692; 48 U.S.C. 355a), with respect to lands conveyed to Natives in townsites established under section 11 of the Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as supplemented by the Act of February 26, 1948 (62 Stat. 35; 48 U.S.C. 355e). The [trustee] group or trustee therefor may convey without compensation to private religious, charitable, or educational institutions or organizations the land occupied by buildings or facilities owned by them on the date the trust is established, where such buildings or facilities are situated within the boundaries of the land to be granted pursuant to this Act.

MINERALS

SEC. 9. Subject to valid existing rights of any non-Native, the Secretary upon granting in trust or in fee any lands under section 5 of this Act to a Native group shall grant to the *appropriate regional corporation* [Corporation established by section 10 of this act] title to all mineral deposits in said lands together with the

right to mine and remove the same under leases issued by said [Corporation.] *corporation with the consent of the Alaska Native Economic Improvement Corporation.* Said [Corporation] *corporation shall hold such minerals in trust for the benefit of each Native group having the surface lands and shall administer the trust in accordance with the applicable provisions of this Act and the laws of Alaska governing the execution of trusts [trust].* All revenues received by the [Corporation] *corporation in the administration of such trust shall be shared [equally] each year with the Native group that has title to the lands from which such receipts were derived and with the Alaska Native Economic Improvement Corporation, which shall receive five percent of the revenues. The Native group shall receive seventy-five percent of the revenues and the regional corporation shall retain twenty percent of the revenues.* Whenever the trust terminates by reason of the dissolution of said [Corporation] *corporation or by subsequent Act of Congress, the Secretary shall convey title to such mineral deposits, subject to valid existing rights, to the Native group having title to the surface lands.*

NATIVE ECONOMIC IMPROVEMENT CORPORATIONS

SEC. 10. (a) There shall be established a single [nonprofit] statewide Native Economic Improvement Corporation, and not more than twenty regional native economic improvement corporations hereinafter referred to as [the "Corporation."] *corporations for the purpose of promoting economic opportunity for the benefit of the Natives and their descendants in Alaska. The [Corporation] corporations shall be organized as approved by the [Secretary] Commission under the [laws of the State of Alaska.] Alaska Business Corporation Act and Alaska law. The [Board] Boards of Directors of the [Corporation] corporations shall be elected [by the Natives in Alaska] on a basis, determined by the [Secretary] Commission, which will assure adequate representation of all [such] Natives and their descendants holding shares in the corporation. The Board shall appoint a manager of the [Corporation] corporation and such other officers as the Board deems desirable to serve at the Board's pleasure, and shall fix their compensation. It shall be the responsibility of the manager to carry out the [Corporation's] corporation's functions in a business-like manner consistent with the provisions of this Act and the policies and directives of the Board. The manager shall select the [Corporation's] corporation's agents and employees, define their duties, and fix their compensation.*

(b) The [Corporation] *corporation, in accordance with such standards as the Commission established by this Act may from time to time prescribe, may, among other things:*

(1) Initiate and coordinate the preparation of long-range overall economic development programs for the Natives and their descendants;

(2) Foster surveys and studies to provide data required for the preparation of specific plans and programs of development;

(3) *Invest in and promote [Promote] private investment in enterprises or activities which will improve the economic status of Natives and their descendants;*

(4) Develop, establish, operate, and maintain various business enterprises or invest in such enterprises to develop, improve, and utilize skills and capabilities of the Natives and their descendants;

(5) Make loans to Natives and their descendants in Alaska on reasonable terms and conditions to finance plant construction, reconstruction, conversion, or expansion, the acquisition of equipment, facilities, machinery, supplies, or materials, and for any other purpose that will promote effectively economic development for the Natives and their descendants in Alaska, where financial assistance applied for is not otherwise available on reasonable terms;

(6) Make grants to one or more Native groups for the development and operation and maintenance of projects which will promote the welfare of the Natives and their descendants; and

(7) Lease competitively, in accordance with sound conservation principles and practices, the minerals held in trust by the [Corporation] *regional corporation.*

(c) The [Corporation] *corporations shall not be regarded as [an instrumentality] instrumentalities of the United States for any purpose and the United States shall not be responsible for the [Corporations] actions or debts of any corporation. The members of the Board, the manager, and the other officers,*

agents, and employees of [the Corporation] a corporation shall not be regarded as Federal employees for any purpose.

(d) The [Corporation] corporations shall at all times maintain complete and accurate books of account and records which shall be reviewed by said Commission periodically. The Commission shall periodically report to the Congress, through the Secretary and the President, but at not less than three-year intervals on the activities and financial condition of the [Corporation] corporations.

TAXATION

SEC. 11. So long as the lands granted to a Native group by this Act and the mineral granted to the [Corporation] corporations are held by such group or by a Native or his descendants or by [Corporation] a regional corporation in fee or in trust, such land and minerals shall not be subject to State or local taxes upon real estate. Rents, issues, profits, royalties, and other revenues or proceeds derived from such lands by a Native or his descendant or a non-Native shall be subject to Federal and State or local tax laws. Payments made under this Act or under any State statute to the [Corporation] corporations or Native groups shall not be taxed to the [Corporation] corporations or Native groups. Leasehold or other interests in such lands held by non-Natives may be taxed as provided by State law. No part of any per capita distribution made by a Native group of any or all of the funds granted to said group under section 14 of this Act or of any or all of the mineral revenues paid to said group by the [Corporation] corporations under section 9 of this Act shall be subject to Federal or State income tax. [The Corporation shall be organized and operated in a manner which will enable such Corporation to qualify for tax exemption under section 501 of the Internal Revenue Code of 1954.]

ENROLLMENT

SEC. 12. The [Secretary] Commission, with the assistance of the Secretary, shall prepare a roll of Natives, and shall prepare a roster of Native groups eligible to receive any grant under this Act. Such roll and roster shall be determined as of the date of this Act. Rolls of Natives and descendants [eligible to vote in any election held pursuant to] eligible for benefits or given rights under this Act may be prepared by the [Secretary] Commission from time to time. Before any such roster or roll is finally approved by the [Secretary] Commission, it shall be published in such manner as [he] it shall find to be practicable and effective, and an opportunity shall be given to lodge protests thereto. The [Secretary's] Commission's findings shall be conclusive. Each Native shall be afforded an opportunity to be enrolled in the [city, town] Native group or village in which or nearest which he resides or in the [city, town] Native group or village from which an ancestor came, under regulations issued by the [Secretary] Commission.

ABORIGINAL USE

SEC. 13. The Secretary may permit the Natives of Alaska to use for fifty years or less from the date of this Act exclusively for hunting, fishing, trapping, and berry picking purposes any land in Alaska that is owned by the United States, in accordance with applicable State and Federal laws and regulations and with the concurrence of the head of the agency administering such land. Any patents or leases hereafter issued for such lands pursuant to the Alaska Statehood Act, or the public land, mining, or mineral leasing laws, shall contain a reservation to the United States of the right to issue for non-exclusive hunting, fishing, trapping, and berry picking purposes, permits for up to fifty years from the date of this Act.

GRANT

SEC. 14 (a) In lieu of according the Natives any right to recover compensation for the extinguishment of aboriginal title, there is authorized to be appropriated and deposited in a special account in the United States Treasury to the credit of the Natives such sums as may be necessary to make a grant to each Native group (1) in an amount computed on the basis of [\$3,000] \$10,000 for each Native in said group, except that, in the case of any Tlingit and Haida Natives in said group, there shall be deducted their pro rata share, after attorneys' fees and litigation expenses, of the money judgment awarded to them in Court of Claims docket numbered 47,900, or (2) in the amount of [\$180] \$500 million, whichever

is the lesser sum. One-~~third~~ *tenth* of the grant shall be deposited into the special account during fiscal year 1971 and the remainder deposited into the account in equal amounts in each of the succeeding ~~four~~ *eighteen* fiscal years and shall earn interest in the amount of 4 percent per annum.

(b) Each year the Secretary shall apportion ~~90~~ *75* percent of the funds then in the special account among the Native groups in Alaska *and 20 percent among the regional native economic improvement corporations*. The apportionment shall be in the ratio that the number of Natives ~~in~~ *on the original roll of each Native group or regional corporation* bears to all of the Natives *on the original rolls*. The funds apportioned among each Native group may be advanced, expended, invested, or reinvested for any purpose that is authorized by the governing organization of the Native group and that is approved by the Commission established by this Act. Each year the remaining funds then in the special account shall be credited to the *Statewide Native Economic Improvement Corporation*. ~~and such~~ *Such* funds, together with all other revenues available to the ~~Corporation~~ *corporations*, may be expended by the ~~Corporation~~ *corporations*, in accordance with an annual budget prepared by *each corporation* ~~the Corporation~~ and *not disapproved* by said Commission.

(c) Before apportioning any money under the provisions of subsection (b) of this section to the Native groups composed of Tlingit and Haida Natives who participated in or received benefits from, the judgment awarded to the Tlingit and Haida Natives in Court of Claims docket numbered 47,900, the Secretary shall deduct the pro rata share, after the deduction of attorneys' fees and litigation expenses, of said money judgment.

METLAKAHTLA INDIANS

SEC. 15. The provisions of this Act shall not apply to the Native groups of Metlakahltla Indians in the Annette Island Reservation but such groups shall be eligible to receive any benefits the *Statewide Native Economic Improvement Corporation* may provide.

ALASKA NATIVE COMMISSION

SEC. 16. In order to assist the Secretary in the administration of this Act, the President ~~may~~ *shall* appoint an Alaska Native Commission of ~~not to exceed three~~ *five* members who shall serve ~~at the pleasure of the President~~ *for five years overlapping terms*. ~~A majority of the~~ *The* members shall have been residents of Alaska for one or more years preceding appointment *and at least two members shall be or be descended from Alaska Natives*. The Commission shall be located within the Department of the Interior *and directly under the Secretary* and shall have the duties and powers prescribed in this Act *and in Chapter—, S.L.A. 1968, subject to the concurrence of the State of Alaska*, and such other duties and powers as the Secretary may from time to time delegate. The Secretary shall also prescribe the compensation to be paid to the members and provide for payment of Commission expenses, including employment of necessary personnel. The Secretary may utilize, with or without reimbursement, personnel and facilities of the Department of the Interior to assist the Commission in carrying out its functions. *The seat, meeting place, and principal offices of the commission shall be located in Alaska. The final decision of the Commission shall be subject to judicial review.*

NATIONAL FOREST LANDS

SEC. 17. The Native groups shall qualify as communities within the meaning of section 6(a) of the Alaska Statehood Act *and 100,000 acres of the land therein granted shall be granted by the Secretary of Agriculture to Native groups.*

APPROPRIATIONS

SEC. 18. (a) There are authorized to be appropriated to the Secretary such sums as may be necessary to defray the costs of the planning, subdivision, survey, management, and disposal of lands under this Act, either directly by the Secretary or by contract, and to pay the expenses of the Commission established by this Act, and to carry out other functions authorized by this Act. Such sums shall be available until expended.

(b) There is authorized to be appropriated to the Secretary such sums as may be necessary to pay all reasonable attorneys' fees and expenses actually incurred by any Native or Native group, as determined by the Secretary, in connection with any claims pending at the date of enactment of this Act before the Indian Claims Commission, which have been terminated by reason of section 4 of this Act and in connection with all other claims of Alaska Native to lands which claims are settled by this Act and Chapter—S.L.A. 1968 including but not limited to attorney's fees arising out or related to court, commission, legislative proceedings, and securing the passage of said acts.

(c) At the beginning of each Congress the Secretary shall report to the Speaker of the House and the President of the Senate the grants made under this Act and an estimate of the time needed to complete the grants. The reporting may be discontinued when the grants are substantially completed.

REPEAL

SEC. 19. Section 3 of the Act of May 25, 1926 (44 Stat. 630; 48 U.S.C. 355c) is hereby repealed.

COMMENTARY ON THE AMENDMENTS PROPOSED BY THE ALASKA FEDERATION OF NATIVES TO SECRETARY UDALL'S PROPOSAL OF APRIL 30, 1968 FOR SETTLEMENT OF THE ALASKA NATIVE LAND CLAIMS

The Alaska Federation of Natives has reviewed the latest proposal of Secretary Udall for the settlement of the Alaska Native Land Claims and has prepared a substitute. The substitute includes the amendments necessary to make the proposal acceptable to the Alaska Federation of Natives.

The AFN continues to support S. 2906, the bill prepared by Governor Hickel's Task Force. Political realities, however, suggest that an administration bill with approval of the Bureau of the Budget, is much more likely to be adopted by Congress. The substitute prepared by the AFN is intended to include the key provisions which the AFN believes are necessary for a fair and acceptable settlement of the land claims of Alaska Natives.

Section 2(b).—Two changes are suggested. First, the task force desired to extend benefits of the settlement to Alaska Natives who are adopted by non-natives. Without appropriate language as we suggest, such persons would not be included on the rolls.

Second, there are many natives who are uncertain of their blood lines but they are regarded by their people as natives. The most striking example are the Aleut people who have been in contact with white men for hundreds of years. The proposed amendment permits such persons to be included in the absence of proof as to minimum blood quantum.

This language, however, does not help the native still living in a native culture whose blood quantum is known to be less than one-quarter native. This could be remedied by striking the words "proof of".

The AFN has no strong opinion on blood quantum. Under the task force bill one-quarter blood was included as a requirement largely in the belief that the Department of the Interior desired it. However, the task force permits benefits to be extended to persons of less than one-quarter blood in a manner somewhat similar to such provisions in Section 10 of this bill.

Section 2(c).—The AFN endorses increasing the responsibility of the Commission and a number of amendments are made to do this including transfer of functions by these amendments from the Secretary of the Interior to the Commission. The first is found here.

All or most native groups are expected to incorporate either under federal or state law. Some language recognizing this should be included especially since native groups incorporated under AS 38.30.190 will be incorporated as business corporations.

The State Act settling Alaska Native Land Claims passed by the 1968 Alaska Legislature includes incorporation provisions which are effective whether or not the state royalty goes into effect. If the state royalty does not go into effect the incorporation provisions are, in effect, optional. If the royalty does go into effect or if a subsequent legislature reenacts the state royalty, incorporation under state law or incorporation under IRA provisions is required in order to receive the state royalty.

Section 4.—The AFN objects to cancelling pending claims before the Indian Claims Commission. Our amendment leaves these claims pending. Perhaps groups

having claims should be required to elect between the remedies provided by this bill and the prior legislation authorizing claims. We have not, however, prepared such an amendment. The preferable approach we believe would be to broaden the offset provisions applicable to the Tlingit-Haida claims in Section 14(c) to claimant before the Indian Claims Commission.

Section 5(a).—The AFN objects to granting land in trust to the Secretary which he then has discretion to grant to the native group when a land use plan has been prepared and approved. The AFN suggests the land be given in fee to the villages but that land not be disposed of except in accordance with a land use plan approved by the Commission. (Another amendment permits the native group the option of having its land held in trust).

The AFN objects to villages located within federal withdrawals being denied any portion of their lands. As the map prepared by AFN Vice President Don Wright demonstrates, there are many such villages and it would be harsh and unjust to deny them any land. The amendment proposed in Section 5(a) will permit such land to be granted to the villages unless it is within a national park or monument. If it is within a national forest it may receive land under Section 17.

Even if such villages can obtain lands now withdrawn, there will be villages which cannot be granted an adequate amount of land. Existing language permits the Secretary to make in lieu grants. We have added clarifying language, in view of our other amendment, that in lieu selections may not be of withdrawn lands.

The AFN objects to the language which now strongly suggests that only land contiguous to the village may be granted to the village. We suggest you only require that the land granted be within the area held by aboriginal title through use and occupancy.

The AFN regards it as essential that an adequate land base be provided to each community which should include lands of future economic value whether or not they are contiguous. Appropriate language has been inserted.

Section 5(b).—The AFN objects to a limitation that grants may not exceed 50,000 acres. Assuming a village of 1,000 were to receive the maximum grant and smaller villages received proportionately less, the natives of Alaska would receive only 2.5 to 3.0 million acres. As the map prepared by Don Wright shows, such a small grant would be indefensible. The natives of Alaska, through the task force, agreed upon 80 million acres, which they anticipated would be within the areas held by Indian title by each group. In a spirit of compromise and hoping to secure the support of the state and federal government, the task force reduced the request to 40 million acres, which has been accepted by the state. As Don Wright's map shows, if such a grant were made on the basis proposed in the task force bill, S. 2906/H.R. 15049, it would not take all of the best land in Alaska and because of the geographic location of Alaska's native population, there would be little conflict between the natives and non-natives desiring land.

Our amendments require the Secretary to grant 40 million acres to natives but gives him some discretion in the amount of land that each village is to receive, however, no village shall be granted less than 320 acres per person. A village of 150 would, therefore, be assured of 48,000 acres.

Section 5(c).—The Tlingit-Haida people hold by Indian title 2.6 million acres of Southeastern Alaska for which they have not received compensation. Since the compensation they do receive is set off against the money provisions of this bill, there is no justification for denying these people the benefits of the land grant provisions. The original language of this subsection has, therefore, been struck.

Section 5(d).—The AFN would prefer to give as little discretion as possible to the Secretary of the Interior as such discretion is almost invariably exercised by administration officials some distance removed from the Secretary and because the grant of such discretion tends to perpetuate dependency. If, however, the AFN must accept the formula of this bill rather than having land grant provisions with a selection process based upon the Alaska Statehood Act (as proposed by the task force) we believe that the Secretary should at least consult with native groups and give them an opportunity to nominate lands before making the land grants. The subsection requires such consultation.

Section 6(b).—This new subsection is a revision of the second sentence of Section 6(a) and requires no special comments.

We are uncertain whether Section 6 adequately disposes of the problem of existing Indian reservations in Alaska. For example, the Tetlin Indian Reservation is not mentioned. As a matter of principle, the AFN believes that each

group or village should receive title to its reservation lands and in appropriate cases should be permitted to receive additional lands.

Section 6(c).—The amendment parallels the amendment relating to land use plans in Section 5.

Section 7.—"Interim" is struck as unnecessarily restrictive.

Section 7(a).—At the time of adoption of the State Act on native land claims, it was anticipated by the House Finance Committee of the Alaska Legislature which drafted the final language of the act, that the State of Alaska would enter into agreements with native villages South of 66° North and East of 152° West during the summer of 1968. The agreements would be on a case by case basis and would determine which state lands would be made available to the villages as a part of overall land claims settlement and which lands might be selected by the state at the request of the villages in order to protect them from third party entries after the Secretary lifts the land freeze. The state, by law, agreed to not select any lands outside of this area for 18 months. Only about one dozen villages are involved in the area where agreements are necessary. By this pattern it was hoped that the natives throughout Alaska would then be able to join with the state in requesting the Secretary of Interior to lift the land freeze. Unfortunately, not only have such agreements not been concluded, but negotiations have not even begun. At this time we, therefore, do not have any substitute for Section 7(a).

Even though our amendments call for a grant of 40 million acres, much of this will be in land now withdrawn and some of the balance will be in lieu lands as to which priority is not requested, so the limit on temporary withdrawals under this section may remain at 20 million acres.

Section 7(c).—The language is broadened to require consultation as to withdrawn lands prior to granting. The reference to withdrawing lands is eliminated as being ambiguous after the amendment.

Section 7(e).—So long as there are no revenues from lands they should be permitted to receive fire insurance protection services at no cost. To simplify the amendment we have not included additional language in the task force bill which would permit the contract for fire protection service if native owned lands produces revenues.

Section 8.—The title is amended to cover the subject.

Section 8(a).—This proposed subsection does permit the native groups the option of holding a title to land by a trustee. The task force accepted such an approach believing that it would reduce objections to the task force proposal and because it felt it would be a desirable device especially when a regional corporation or statewide corporation acts as a trustee. The AFN does not desire the Secretary to act as a trustee. The AFN is willing to give the Alaska Native Commission the power to approve trustees. The commission might be given the explicit power of supervision of trustees, otherwise the trustees would be subject to the Alaska Courts.

Section 8(b).—This material has been broadened to cover land disposed of by either the group or the trustee. The AFN opposes applying the restriction of 48 U.S.C. 355(c) to land held by natives. At the most, natives should have only the option to be so restricted.

Section 9.—The AFN is opposed to granting the statewide corporation a one-half interest in the mineral rights even though the AFN may become that corporation under the terms of the Alaska State Native Land Claims Settlement Act. Rather it should be granted to the regional corporation. Also, we would not object to giving the management rights to regional corporations provided the statewide corporation consents to all leases.

As to distribution of revenues, we urge following the formula of 75% to the village, 20% to the regional corporation, and 5% to the statewide corporation. Such a formula was at one time considered by the task force but was rejected in favor of giving all mineral rights to the village level group. The foregoing formula, therefore, represents a compromise between the task force provisions and the present language of Section 9. (See Section 10)

Section 10(a).—The task force proposed that the statewide corporation receive 5% of the monies and none of the land and that the regional corporations receive 20% of the monies and none of the land. In the opinion of the AFN, this is a balanced approach in handling disposing of the land and money under the land settlement.

The grant of mineral rights under Section 9 will further strengthen the regional corporations.

The AFN strongly endorses the regional corporation concept. The task force bill contained a number of provisions designed to strengthen the regional corporations even further through promotion of merger of villages into the appropriate regional corporations.

Following the State Act and the task force approach, the corporations are business corporations. While initially few, if any, will be able to pay dividends, eventually most or all will be able to and there is no good reason why this form of organization should not be used and there are many sound reasons for it. For example, the use of a membership corporation tends to encourage tribalism. The ownership of property, inherent in the business corporation form through stock ownership, tends to promote pride and independence. Of course there is a danger that some natives may foolishly sell their stock. So the Alaska State law does not permit the first holder of stock to sell his shares and subsequent holders must be Alaska Natives or descendants for 50 years.

If Congress finds these alienation provisions too restrictive, the AFN would be willing to have them modified.

While the maximum number of regional corporations has been set at 20, the number could be reduced to not more than 15. Reduction below this, however, creates difficult problems because of the wide diversity of races, tribes, languages and dialects found among Alaska's Natives. Some of Alaska's native people were at war with each other during the 19th century. While time is healing these wounds, language and cultural differences remain.

Some persons have objected to both the village corporation and the regional corporation concept on the ground that it will freeze the people to the land. This could happen but the task force, composed of native leaders, is concerned that it not happen and their formula is intended to prevent "freezing villages in history". This was a factor behind adoption of the business corporation form. It separates the property holding and management entity from the municipal entity which is free to incorporate under Alaska law. Benefits are not restricted on the basis of residency. The stockholders of the corporation are not tied to the land. Neither the village corporation nor the national corporation must restrict their activities to a geographical area. If opportunities for economic prosperity do not exist or are slender in a particular region, the regional corporation may conduct or invest in enterprises elsewhere within Alaska and with approval of the Commission, outside of Alaska.

Section 11.—The business corporations are not intended to be and shall not qualify for tax exemption under Section 501 of the Internal Revenue Code.

Section 12.—Reference to city and town is eliminated. Under state law native groups are based upon existing or historical native villages. The Secretary's proposal is ambiguous as to whether it is following this approach. If it intends to recognize urban native groups, it would seem difficult to extend to such groups the land grant provisions of the act. The task force preferred to require the urban native to enroll on the rolls of "his" village.

The reference to eligibility to vote has been changed in view of the other amendments of the elimination of the membership corporation approach.

Section 14(a).—The amendments are self-explanatory. Other witnesses will give the justification. The grant will be spread over 19 fiscal years instead of the five proposed by the Secretary in order to reduce the fiscal impact on the federal treasury of the increase in the grant to \$500 million.

Section 14(b).—The apportionment has been changed in accordance with our recommendation on regional corporations. The apportionment is based on a closed roll.

Section 16.—The Alaska Native Commission would be strengthened by the proposed amendments. While the AFN believes that the majority of the Commission should be native, since the Commission will be supervising the use and expenditure of private property of Alaska Natives, by this amendment we will accept a minimum guarantee of representation. The other amendments are designed to ensure the Commission's Alaskan orientation and independence.

Section 17.—We propose the amendment in order to make this section effective. As it now reads, it is unenforceable. Even with the amendment there may be difficulties in view of the history of applications for national forest land under Section 6(a) of the Alaska Statehood Act.

Section 18(b).—The attorneys for Alaska Native groups have fairly, for more than a year, advised their clients to seek a legislative settlement rather than a jurisdictional act so a suit could be brought before the Indian Claims Commission or the Court of Claims. If some Indian claims attorneys are suspected of postponing Indian claims cases in their own interests, such cannot be said of the

attorneys who have been representing the Alaska Natives. There is grave doubt whether the Secretary will approve attorneys contracts heretofore entered into on any basis and, if they are approved, there isn't any legal basis for compensation. Nevertheless, it is clear that the attorneys have been performing valuable legal services which have helped measurably in obtaining a solution to the land claims problem. They should be paid. The proposed amendment alleviates this problem. While the amendment provided for direct appropriation, such as is not required by AFN. It only seeks the assurance that the attorneys for various groups will be paid from some source.

ATTACHMENT A

COMMENTARY TO FEDERAL ALASKA NATIVE CLAIMS ACT OF 1968

Draft of January 24, 1968

General.—This commentary to the January 24, 1968 draft of the proposed Federal Alaska Native Claims Act of 1968, proposed by the Governor's Task Force on Native Land Claims should be read in conjunction with the report of the Task Force to Governor Hickel from its meeting of January 12-18, 1968.

The draft is still subject to revision, but the draft incorporates the policy decisions of the Task Force and can at least be furnished "as is" to the Senate Committee on Interior and Insular Affairs at its hearing in Anchorage on February 8-10, 1968.

The draft should also be read in conjunction with the proposed state act and commentary thereto.

Section 100. Purpose.—This is the preamble or purpose clause. It is based upon the preamble to the draft federal bill prepared by Attorney General Boyko of Alaska (hereafter the "Boyko Federal Draft"). The term "needed by" should be replaced by "to and by".

Section 101. Creation of Commission.—The commission has administrative and limited adjudicatory functions. Hopefully, it will function fairly but informally. Its primary function is to administer, over a long term, the legislative settlement of the land claims.

The requirement that members be Alaska residents for five (5) years is very important to the Task Force, as is the requirement that Alaska natives be well represented on the commission. The Task Force would otherwise be opposed to granting the commission the powers vested in it by this Act.

The Task Force would have preferred a commission with at least a portion of the members elected by and from all Alaska natives, but this was omitted in the belief that the Congress would not accept such a scheme despite the current poverty program requirements for representation of the poor on governing boards. Compare Section 2, Boyko State Draft.

Section 102. Term of Office.—Overlapping terms are provided, and the commissioners are given tenure.

Section 103. Compensation.—The drafters expect the commission to be full time, or nearly full time during the first few years, later the duties will be less onerous, and they may then be compensated on the basis of the time they are engaged in their duties.

Section 104. Nominations.—If neither the Governor of Alaska nor the natives are to select any members of the commission, the Task Force feels their interest should at least entitle them to make suggestions to the President. This is here provided, but the President is not required to pick his appointees from among those nominated, as such a requirement can lead to an attempt by the suggesting agency to control the choice of the President by suggesting several, only one of whom would be acceptable to the President.

Section 105. Location.—The Task Force deems it of utmost importance that this section be adopted. We do not wish to do our business with the commission in Washington.

Section 106. Employees and Expenses.—This section requires no commentary.

Section 107. Procedure.—No comment.

Section 108. Jurisdiction and Powers.—Since full adjudication of native claims will normally not be necessary the power of the commission to adjudicate claims is limited to the extent necessary to carry out the state and federal acts. The Task Force does not expect a multitude of litigated native claims to be heard by the commission.

While the commission is primarily an administrative agency and not adjudicatory, when it is proceeding in disputed matters, notice and opportunity to be heard is required.

Section 109. Testimony of Witnesses.—No comment.

Section 110. Final Determination of the Commission.—While the commission is not expected to act like a court of law, this section establishes certain minimum standards for its decisions in disputed matters, in order to make judicial review possible.

Section 111. Judicial Review.—Review is provided to the U.S. District Court for the District of Alaska. It is important to the Task Force that the review be to this court, as it is the one most competent to decide any appeal. It may not be the most sympathetic, indeed the drafters believe that historically this court has not been sympathetic to native claims, but this factor is outweighed by its availability and competence.

The scope of review is limited, in part because of a desire for economy and early settlement of disputes, and in part because even the commission's decisions in disputes are likely to be decided on broad public policy grounds rather than on precise legal rights.

Section 112. Attorneys for Native Groups.—The United States has always controlled the contracts of lawyers with Indians. While the Task Force is not happy about this situation, as federal officials have, at times, misused this power, this section appears necessary.

Since the commission will be meeting in Alaska, admission to the bar of the United States District Court for the District of Alaska, to which any appeals would be taken, is appropriate. This does *not* restrict practice to those lawyers resident in Alaska or members of the Alaska Bar Association.

Section 113. Official Documents.—Compare Sec. 10, S. 2690.

Section 201. Native Township Grants.—This and succeeding sections are based upon the selection procedures of the Alaska Statehood Act. The grants are to the local native groups, are in praesenti grants (at least to the extent that the Statehood Act makes in praesenti grants, if it does) and the group, rather than the Secretary, selects the lands it desires.

The total lands granted are 40 million acres, which are divided among the groups according to their "population", that is those on their rolls. However, as will be seen, a native need not be a village resident to be included on the rolls.

Preliminary estimates of the number that will be enrolled is 80,000. If so, the land selection factor will be 500, and each native group will be entitled to select as its grants $500 \text{ acres} \times \text{number of persons on its final roll}$. For example $500 \times 300 = 150,000 \text{ acres}$.

Section 202. Preferred Right of Selection.—Generally, the grant awarded each native group will be much smaller than the area it claims Indian Title to by aboriginal occupancy. The Task Force considers it crucial to any fair settlement that each native group be able to get in its grant the lands most important to it. Generally, these will be lands in the immediate vicinity of the historic village, but some lands may be future village sites or lands of economic value, and so on. This section gives the group a preferred right of selection as against the State of Alaska and all others for a limited period of time so that it can obtain title to such lands. This preference right does not extend throughout the native claims area, however, but only to certain lands nominated and withdrawn within six months of the date of the federal act under the next section.

Section 203. Temporary Withdrawal to Protect Preference Rights.—The Task Force recognizes the interest of the State of Alaska in early resumption of state selection. This section, with Section 202, attempts to accommodate this interest with the interest of native groups in obtaining title to the lands most important to the several native groups.

Each group nominates such lands for selection and the Secretary withdraws, in general, these lands from entry or selection by others. This permits the land freeze (continued by Section 213) to be lifted by the commission within six months after the passage of the federal act.

The maximum acreage so nominated and withdrawn cannot exceed forty million acres.

Section 204. Withdrawn Lands.—A major problem with any land settlement for the villages lies in the fact that many villages are situated on or are surrounded by lands which have been withdrawn or reserved by the Federal Government. No satisfactory land settlement can be made without permitting the natives who have used and occupied these lands from time immemorial to obtain some minimum portion of these reserved and withdrawn lands. This section

provides four methods of making at least some of these withdrawn and reserved lands available for the native occupant.

Subsection (a) is a redraft of a provision in S. 1964, and is believed to be acceptable to the Secretary of the Interior.

Subsection (b) is a redraft of a suggestion which would have made the Alaska Native Commission the deciding body on revocation of a withdrawal or reservation (with an appeal to Congress). It has been modified and thereby made less effective in the belief that the original scheme would have been objectionable to the several departments. While the Task Force prefers the earlier version, it modified its position in hopes of obtaining departmental support.

Subsection (c) is especially important, for many villages will be unable to obtain any land around the village unless such a provision as this is in the bill.

Subsection (d) is intended to make some minimum amount of the national forests available, with the consent of the Secretary of Agriculture, for the local native groups. While the Statehood Act permits such grants it is only available to municipal corporations. While the Task Force would like to make more forest lands available, a limit of 100,000 acres was placed on this provision in hopes of making it acceptable to the Department of Agriculture and to avoid any unwarranted antagonistic reaction by conservation groups.

Section 205. General Provisions as to Selection.—These provisions are a variation of those in the Statehood Act.

Section 206. Temporary Roll.—This is an essential step in the exercise of preferential rights of selection as against the State of Alaska.

Section 207. Final Roll.—This section is self-explanatory. Note that the roll is not kept open. After-born children and others who later come to light may share in benefits under the rules of the corporation, but cannot be added to the rolls.

Section 208. Preferred Right of Selection as to Withdrawn Lands.—This section parallels a similar section in the Alaska Statehood Act, but gives the native group priority in its own area.

Section 209. Surveys and Patents.—This section parallels a similar section in the Alaska Statehood Act, except that patent may be granted by description before survey.

Section 210. Tentative Approval.—This is taken from the Statehood Act.

Section 211. Trust.—This is a redraft of similar provisions in S. 1964. Generally, Alaska native groups are opposed to using a trustee, but some groups may desire to use these optional provisions.

Section 212. In Lieu Selections.—The idea for this section comes from S. 1964, and the idea recognizes that many villages do not have land in the vicinity available for selection. The section permits such villages to select lands in other areas in Alaska but, since they will be selected primarily for economic value, the Task Force felt that such lands should be subject to a $\frac{1}{8}$ royalty to the local native group and $\frac{1}{8}$ royalty to the statewide native corporation.

A native group will not be required to select all barren lands in its claim area before being allowed in lieu selections. In lieu selections are not entitled to priority over state selections.

Section 213. Interim Administration Under Public Land Laws.—This section, which temporarily continues the land freeze, is a revision of Section 2 of S. 1964.

Section 214. Reservations and Reserves.—This section is a revision of Section 3 of S. 1964.

Section 215. Native Allotment Act.—This section is a revision of Section 5 of S. 1964.

Section 216. Taxation and Local Laws.—This section attempts to provide a comprehensive set of rules of taxation of native township grant lands.

While there is no property tax on land in Alaska outside of cities and boroughs, the Task Force was concerned with the possibility that the native corporations might lose lands through a real property tax on lands that were not producing revenue. As the corporations are the corporate embodiment of a tribal sovereign and, as Indian lands have often been exempted from property taxation, it was considered appropriate to provide such an exemption.

On the other hand, the Task Force recognizes that it is proper for lands receiving benefits from municipal governments to pay for such benefits. In Alaska, as in many states, this is often done by the sovereign landowner making payments "in lieu of taxes" to the local government. The Alaska State Housing Authority makes such payments on its low cost public housing projects, for example. This device is here recognized.

In keeping with the business corporation approach, the revenues from these lands are taxable under the income tax laws of Alaska and the United States. The Alaska Constitution, in keeping with modern theory, makes private interests in government property taxable to the private holder, and the same principle is adopted here.

The section also makes native township grant lands generally subject to state and local laws, such as planning and zoning, building codes, and so on. Compare Sections 3(b) and 1(e) of S. 1964.

Section 217. Federal Highway Allocations and Fire Protection.—The first paragraph of this section is a revision of Section 7, S. 1964.

The second paragraph is intended to solve another potentially serious problem, by having the Bureau of Land Management continue to provide fire protection at no cost on lands which produce no revenues. The State of Alaska does not receive such revenues free, and this has been a factor tending to prevent early selection of lands granted by the Statehood Act.

Section 218. Rights of Certain Occupants.—These provisions are revisions of provisions in S. 1964, see Section 3(e), (h), Page 5.

Section 219. Additional Township Grants.—This section is a safety valve. As a legislative settlement cannot, by its nature, deal with the equities of each group of natives, some groups may receive an inadequate settlement. The Secretary is empowered to give relief in such situations.

Although the section is the result of a suggestion from an Interior Department representative, and the language is drawn from Section 3(a), Pages 8-9, of S. 1964, the section at this time represents only the position of the Task Force.

Section 220. Priority Between State and Native Selections Absent Preference Rights.—This section establishes a general rule that absent preference rights first in time are first in right as between selections by native groups and the State of Alaska.

While the Task Force expects that native groups will use their land selection rights immediately, and select perhaps as much as thirty million acres within a year after the federal act is adopted, many native groups will hold some selection rights in reserve, and under Section 201 they will have twenty-five (25) years in which to exercise their selections. So there will be conflicts between state and native selections, even between native selections in the future. The rule of first in time, first in right seems a fair way of resolving these conflicts.

Section 221. Contracts With The Alaska Division of Lands.—By this section native groups are empowered (and, in effect, encouraged) to enter into land management contracts with the Alaska Division of Lands. The native group retains policy control. The Division of Lands now provides such services to the boroughs of Alaska (which, under the borough act, are entitled to select 10% of the state lands in the borough).

Section 222. Conveyance, Release and Redistribution of Land Selection Rights.—Some native groups may not desire to exercise all of their land selection rights. The first paragraph permits the rights to be released to the Alaska Native Commission, which may redistribute the rights upon the basis of need and equity. Released land selection rights should not be offset against an award in the Indian Claims Commission.

As the State of Alaska has received patent to some areas which villages consider important or critical to their well being, they may contract with the State of Alaska to obtain these lands. The second paragraph is intended to provide for such acquisitions.

The third paragraph is self-explanatory. As some groups may not use all of their selection rights in twenty-five years, the fourth paragraph provides for the redistribution on the basis of need and equity of any "leftover" selection rights.

Section 223. State Not to Lose Entitlement.—As certain state selections will be voided by native group preference selections, it is appropriate to make clear that the state in such cases does not lose its selection rights.

Section 301. Grant of Royalty.—Sections 301, 302, 304, 305, 306 and 308 are a Task Force revision of a draft submitted to the Task Force by representatives of the Interior Department.

In Section 301 the principal changes are that the royalty is made a present property interest and the initial term is extended from 10 to 25 years. It is understood that these changes are supported by both Interior Department and Governor Hickel.

Section 302. Advance on Royalty.—This section is believed acceptable to both Interior and Governor Hickel. The Task Force would prefer a greater advance royalty, but decided to ask for \$20,000,000, about \$250 per person on the rolls, as they considered that a greater asking might antagonize some persons.

Section 303. Computation of Term.—This section, which is self-explanatory, in effect guarantees the natives that they will receive at least \$65,000,000 during the twenty-five year term. This recent addition to the legislation has, to date, only received the approval of the State of Alaska. The Task Force believes that some such provision should be included.

Section 304. Modification and Termination.—A revision of the Interior draft, this section is self-explanatory.

Section 305. Distribution to Native Groups.—See generally, on this section and Sections 306 and 307, the report of the Task Force to Governor Hickel.

Section 306. Distribution to Native Regional Corporation.—See comments to Section 305.

Section 307. Distribution to Native Statewide Corporation.—Self-explanatory.

Section 308. Temporary Advancements.—Taken from Interior draft, this revised provision will permit possible distribution of funds before the final rolls are completed.

Section 309. Development of Revenues.—The Task Force believes that if the natives are to accept the gamble offered by Secretary Udall in lieu of compensation for their lands, including those already lost, the United States should commit itself to play the game. We would not want the United States to later decide to lock up the outer continental shelf.

Section 401. Aboriginal Use and Occupancy.—This section is a revision of 3(e), p. 10 of S. 1964, but it is much broader and the permit period on third party lands is extended to 100 years.

Section 402. Termination and Compensation.—This section notes the methods of termination of aboriginal rights, and provides that such termination shall be non-compensable. It assumes an adequate overall settlement.

Section 501. Final Settlement of Native Claims.—Compare Section 6, S 1964.

Section 502. Time for Filing Claims.—Self-explanatory. Note that the principal purpose of the claim is to delimit the area within which a group has preference rights of land selection.

Section 503. Conflicting Claims.—Because of the limited function of claims, relatively little litigation is expected on conflicting claims.

Section 504. Claims of New Villages.—Native villages have relocated or been reestablished during the last 100 years as a result of volcanic explosion, flood, loss of game, and other reasons. This section permits these villages to participate in the settlement.

Section 505. Claims of Abandoned Villages.—This section provides for situations such as Kenai, where the native village has been absorbed, and villages which have been involuntarily abandoned. In the latter case, only a few native group corporations based upon abandoned villages are expected, as most members of these villages have formed or have affiliations with other groups.

Section 506. Merger of Claims and Groups.—While Alaska natives historically have not had strong central organizations, a move in this direction has been evident in recent years. The Task Force believes this movement should be recognized and encouraged.

Section 507. Enrollment.—This section provides for the principles of enrollment. Generally, the group is the judge, but every native is entitled to enrollment and may apply to the commission for relief if he is denied enrollment.

Section 508. Enrollment of Regional Native Corporations and the Statewide Native Corporation.—Self-explanatory.

Section 509. Exclusion of Metlakahla Indians.—Compare Section 4(b) of S. 1964.

Section 510. Alaska Federation of Natives and Regional Associations.—This section permits certain existing organizations to become the statewide native corporation or regional native corporations provided for in this act.

Also, it provides for effective merger of villages into regional associations, a development which is now occurring. Compare Sec. 506.

Section 511. Continuation of Programs.—The Task Force regards the proposed settlement as modest. After its accomplishment the average native for many years will still need the benefits of existing Bureau of Indian Affairs programs. The settlement should not be used as an excuse to terminate Indian programs.

Section 512. Incorporation.—This section establishes some basic rules for incorporation under state law.

Section 513. Alternative Incorporation Under the Indian Reorganization Act.—Self-explanatory.

Section 514. Taxation.—This section establishes certain general rules of taxation. It should be reviewed and revised by an expert in drafting tax legislation.

Section 515. Authorization for Appropriation.—Compare Section 3(j), p. 7, S. 1964.

Section 516. Definitions.—These are generally self-explanatory. Note that certain urban native groups, such as the Fairbanks Native Association, which do not as a group claim Indian Title, are not "native groups" under the act. Their members must be enrolled on the rolls of their historic villages.

Section 517. Short Title.—No comment.

ATTACHMENT B

TASK FORCE COMMENTARY ON STATE ALASKA NATIVE CLAIMS ACT

Draft of January 24, 1968

GENERAL

The proposed state act is a companion measure to the proposed federal act. Both bills are components of an overall approach to settlement of the Alaska native land claims problem. They represent the results achieved by the Governor's Task Force on this subject, comprised of various native leaders from throughout the state.

After many months of effort by this group this two-fold legislative proposal has emerged. The Task Force members have met frequently with state and federal officials, have negotiated tentative agreements on certain items of these bills, and have spent considerable time discussing the terms on which a legislative settlement could best be obtained on terms fair to the State of Alaska, the government of the United States, the natives of Alaska, and the public at large. The proposed bills represent the considered views of the Task Force on what would be an adequate and fair settlement.

The primary legislation for settlement must come from the federal government. The state legislation, except for the royalty provision, is largely for the purpose of implementing the proposed federal act. Accordingly, the proposed state bill can only be understood completely by reading it together with the companion federal bill and the commentary thereon.

CHAPTER I. ALASKA NATIVE COMMISSION

This chapter recognizes and vests power in the federally created Alaska Native Commission to carry out the functions committed to it by the Alaska act. While the bulk of the commission's functions will be concerned with administering the federal act, there are areas where it would perform functions for the state. The important actions committed to it by the state bill would be the distribution of the state royalty under the same methods as the federal royalty is distributed, and the supervisory control over native corporations set forth in Sections 301, 304, 309, 310 and 311 of the proposed state act.

There are, of course, other commission functions contained in the proposed federal act which affect the State of Alaska. For an understanding of these one should refer to that proposed act.

CHAPTER II. ROYALTY

The royalty granted by the state would consist of 5% of the monetary revenues received from certain state lands after the passage of the act. The royalty would not apply to lands from which the state is now deriving revenue or lands which have been conveyed to third parties. It would not apply to the future revenues received by the state as a share of the proceeds derived from federally owned lands in Alaska, which share is granted by the Alaska Statehood Act. The royalty would not commence until there has been a lifting of the current federal "land freeze".

Thus, the royalty grant would have no impact on current state revenues, nor on future revenues from state lands which are economically productive at this time. The royalty looks only to future development of lands, and would in effect give the natives of Alaska a stake in that future.

The royalty would be distributed to native groups on the same basis as that provided in the federal bill.

CHAPTER III. INCORPORATION OF NATIVE GROUPS

The aim of this chapter is to establish a form of business corporation by which the native beneficiaries of the state and federal acts can engage in business enterprise under conditions of modern commercial and corporate law.

The basic model is the general business corporation contemplated by existing Alaska law, which in turn is based on the Model Business Corporation Act. A number of sections then alter this basic form so that certain safeguards are provided against the dissipation of native assets, and so that the benefits of the corporate assets, for several generations to come, will be made available only to proper native beneficiaries. There are also provisions whereby there can be distributions of assets to natives under conditions not normally encountered in an ordinary business corporation.

The taxation provisions are designed to exempt the lands and royalties received by the native corporation, but to render taxable all profits or dividends derived from corporate business activity.

Because there may be unforeseen instances where the Alaska corporation laws may require further adjustment to the purposes of native group enterprise, the Alaska Native Commission is given authority to issue regulations which would bring about such necessary adaptation of the ordinary business corporation to native goals. This will eliminate the need to burden future legislatures with minor statutory amendments, and it will allow the commission to resolve certain problems concerning the structure and functioning of these corporations which may arise from time to time.

The Task Force views this chapter as embodying the best current thought on how native business enterprises should be conducted. It would place these enterprises on a modern and businesslike footing, but would permit these corporations to serve native group needs adequately.

ATTACHMENT C

TABLE OF CONTENTS—PROPOSED STATE BILL

ALASKA NATIVE COMMISSION

Section—

- 100. Purpose.
- 101. Acceptance of Federal Commission.
- 102. Criteria for Determining the Acceptability of Federal Commission.
- 103. Jurisdiction and Powers.

ROYALTY

- 201. Grant of Royalty.
- 202. Property Interest.
- 203. Royalty Sources.
- 204. Distribution of Royalty.
- 205. Apportionment of Royalty.
- 206. Temporary Trust.
- 207. Development of Revenues.
- 208. Final Settlement of Native Claims.

INCORPORATION OF NATIVE GROUPS

- 301. Certificate of Incorporation.
- 302. Membership and Stock.
- 303. Voting Rights.
- 304. Purpose.
- 305. Capital.
- 306. Not a Government Instrumentality.
- 307. Residency Requirements.
- 308. Prohibition on Per Capita Distributions.
- 309. Limits on Distribution.
- 310. Dissolution.
- 311. Merger and Consolidation.
- 312. Taxation.
- 313. Rules and Regulations.

GENERAL PROVISIONS

- 401. Contracts With the Alaska Division of Lands.
- 402. Exchange of Lands.
- 403. Definitions.
- 404. Effective Date.

Section 100. Purposes

It is the policy of the State of Alaska to assist in the settlement of land claims by Alaska natives, based upon aboriginal use and occupancy of Alaska lands, to provide a royalty from certain revenues from state lands as part of the compen-

sation to be paid to Alaska natives for the taking of their aboriginal land rights; to provide by law a special form of corporation to enable Alaska native groups to carry on business enterprises in a modern form of business organization, and to vest powers in a federally created Alaska Native Commission for the purposes of carrying out this Act as well as federal legislation which may be enacted to settle the land claims of Alaska natives.

Section 101. Acceptance of Federal Commission

If legislation is enacted by the United States whereby a commission is created which is capable of performing the functions of the Alaska Native Commission set forth in this Act, the State of Alaska does hereby designate and constitute such commission as the agency for carrying out the Alaska Native Commission purposes and functions set forth in this Act.

Upon enactment of federal legislation creating such a commission, the Governor of Alaska shall determine whether it is substantially capable of performing the functions of the commission otherwise set forth in this Act. If the Governor so determines in the affirmative, he shall certify and make public his determination, whereupon the federally created commission shall become the agency to perform the functions set forth in this Act.

Section 102. Criteria for Determining the Acceptability of Federal Commission

In making the determination under Section 101 hereof, the Governor shall be guided by the following minimum standards of acceptability of a federal commission to discharge the functions set forth in this Act:

- (a) It must provide that its members be Alaska residents.
- (b) It must provide for staggered terms of office.
- (c) It must provide that at least a majority of its members be Alaska natives as defined herein.
- (d) It must provide that the State of Alaska may vest power in it.
- (e) It must be empowered to make final determinations of the matters committed to it by this Act, where this Act requires such final determinations.

Section 103. Jurisdiction and Powers

The commission shall exercise the functions and powers set forth in this Act.

The commission may investigate all matters which are the proper subjects of its action. It shall have the power to call upon any of the departments of the state government for information it deems necessary to perform its duties and functions.

The commission shall give reasonable notice to the interested parties before it and an opportunity to be heard before making a final determination on any disputed matter.

ROYALTY

Section 201. Grant of Royalty

Section 202. Property Interest

The state hereby grants to Alaska natives a royalty and share in certain proceeds from state and federal lands, on the terms and conditions following.

The royalty shall consist of 5% of the proceeds subject to this Act. The royalty is by this Act an irrevocable grant, and the right of Alaska natives to the same vests on the day this Act becomes law.

Section 203. Royalty Sources

The proceeds subject to this Act are all monetary revenues which are received by the state; after the effective date of this Act, from the sale, lease, exchange, or other disposal of lands which have been or are acquired hereafter by the state under Section 6 of the Alaska Statehood Act (72 Stat. 339), as amended, including tidelands and submerged lands owned by the state pursuant to the grant contained in Section 6(m) of the Alaska Statehood Act. The royalty does not apply to (a) lands the fee simple title to which has been conveyed by the state to other persons before the effective date of this Act, (b) to tidelands and submerged lands which are or have been conveyed to others under AS 38.05.320, (c) to revenues received by the state after the effective date of this Act, from any then existing contract of sale, lease, contract of exchange or other contract for the disposal of lands or any such contract entered into pursuant to a then existing option for sale, lease, exchange or other disposition, (d) to revenues due or received before the Governor of Alaska certifies that the "land freeze" has been lifted or substantially lifted and the state is able to resume selection of

lands awarded to it under the Alaska Statehood Act, or (e) to revenues received as the state's share of revenues from public lands pursuant to Section 28 of the Alaska Statehood Act.

Section 204. Distribution of Royalty

The royalty shall be distributed to three classes of recipients: (a) 75% to incorporated native groups, (b) 20% to regional native corporations, and (c) 5% to a statewide native corporation.

Section 205. Apportionment of Royalty

The apportionment of the royalty shall be based upon the number of persons on the final rolls and distribution shall be made under rules and regulations adopted by the Alaska Native Commission substantially in accord with the distribution of federal royalties from the outer continental shelf.

Section 206. Temporary Trust

Until the commencement of corporate existence of any recipient corporation and until a determination of the areas of village and regional occupancy has been made by the commission, the proceeds from the royalty shares for such entities shall be held in trust by the state. Immediately upon the commencement of corporate existence of any such corporation, and the completion of the temporary rolls of such corporation, the state shall pay over to such corporation 75% of its estimated share of the royalty. Like payments shall be made at intervals of not less than once each calendar year thereafter until the final rolls of all corporations have been certified and all royalty shares can be finally determined.

Section 207. Development of Revenues

The Commissioner of Natural Resources shall proceed with the economic development of lands subject to the royalty granted herein by this chapter expeditiously and without delay. The commissioner shall annually report to the Alaska Native Commission established by federal law on the status of and plans for such development, and the commission may thereafter make its recommendations thereon to the Governor.

Section 208. Final Settlement of Native Claims

The provisions of this Act shall be regarded as full settlement of all claims against the State of Alaska based upon aboriginal right, title, use, or occupancy of lands in Alaska by natives of Alaska.

INCORPORATION OF NATIVE GROUPS

Section 301. Certificate of Incorporation

Under such rules and regulations as the Alaska Native Commission may prescribe, each native group, regional native corporation, and the statewide native corporation entitled to benefits under this Act or the Federal Alaska Native Claims Act of 1968 shall incorporate under the Alaska Business Corporation Act, as modified by this Act and said rules and regulations, except those native groups which elect to incorporate under the Indian Reorganization Act. Until one hundred years after the effective date of this Act the articles of incorporation and all amendments shall be subject to the approval of the commission.

Section 302. Membership and Stock

All natives enrolled on the rolls of the native group incorporated or to be incorporated under the Federal Alaska Native Claims Act of 1968 shall be the initial members and shareholders of the incorporated native group. Each such membership shall be represented by one hundred (100) shares of the capital stock of the corporation, of no par value, which shall be issued to each member.

Shares of stock shall be inalienable from the first holder of the shares, by operation of law or otherwise, except upon his death when the shares shall pass by devise or inheritance free of any claims against the estate. When ownership of shares passes by devise or inheritance, such shares shall be partitioned, so far as may be practicable, in whole shares among those entitled thereto. The corporation shall retire by purchase any shares in which fractional interests valued at less than one hundred dollars (\$100.00) exist.

The second holder of shares of stock must be or be descended from at least one of the first members of the incorporated native group, the third and subsequent holders must be or be descended from at least one of the first members of the re-

gional native corporation and, after a term of not less than twenty-five (25) years, nor more than seventy-five (75) years after the effective date of this Act, as determined by the Alaska Native Commission as to each incorporated native group, subsequent holders thereafter need only be or be descended from at least one of the first members of any native group incorporated under Section 301, until one hundred years (100) after the effective date of this Act. Thereafter, the stock shall be freely alienable. Nothing in this section shall prevent the corporation from adopting any provision restricting stock ownership permitted ordinary business corporations.

A person not entitled to hold stock may lawfully acquire stock by devise or inheritance, in which event the corporation shall purchase such stock at its fair value.

Section 303. Voting Rights

All shares shall carry voting rights and cumulative voting is required. Stock held by a minor may be voted by his parent or guardian.

Section 304. Purpose

The corporations may carry on any lawful business permitted by the Alaska Business Corporations Act in Alaska and, with the consent of the commission, outside of Alaska. All investments in securities shall be in accordance with an investment program which makes provisions for skilled investment counsel.

To the extent permitted by its articles and by-laws, the corporations may make distributions from earned surplus or capital as gifts, grants or loans to shareholders, descendants of the first holders of the shares of the corporation and to persons of at least one-sixteenth native blood who would have been eligible for membership as a first holder but for the lack of sufficient blood quantum and who are enrolled by the corporation upon a special roll, provided that no gifts or grants shall be made after a period of time of not less than twenty-five (25) years nor more than fifty (50) years, as determined by the Alaska Native Commission for each corporation, provided further that after such period the corporation may make charitable, educational and other donations as allowed by the Alaska Business Corporations Act.

The regional corporations may make distributions from earned surplus or capital as grants or loans to native group corporations of the region of such regional corporation and to municipal corporations and native villages within the region.

The statewide corporation may make distributions from earned surplus or capital as grants or loans to regional corporations or native group corporations.

Section 305. Capital

The capital of the corporation shall consist of the land conveyed to the corporation by the United States under the Federal Alaska Native Claim Act of 1968, entered at its fair market value upon receiving the conveyance therefore, the monies received from the royalty in revenues received from the outer continental shelf, and the monies received from the royalties in revenues from state lands and in revenues from federal leases received by the state, granted by the State Native Claim Act of 1968.

Section 306. Not a Government Instrumentality

A corporation organized under this chapter shall not be an agency or instrumentality of the State of Alaska or of the United States for any purpose, and the State of Alaska and the United States shall not be responsible for the corporation's action or debts unless specifically guaranteed or insured.

Section 307. Residency Restrictions

Residence shall not be restricted, and residence or proposed residence shall not be made a restriction on membership or shareholding, voting of shares, or receipt of benefits from the corporation, provided that distribution of land in kind for townsite lots, fish camp sites, or other aboriginal use may be limited to residents, but continued residence shall not be made a condition of any such distribution of land in kind.

Section 308. Prohibition on Per Capita Distributions

The corporation shall not make any per capita distribution, provided that the corporation may declare and pay dividends as any other business corporation, and provided further that distributions in partial liquidation or liquidation

may be made after one hundred (100) years after the effective date of this Act.

Section 309. Limits on Distributions

Distributions under Section 304 may be made subject to the following provisions:

- (a) The persons, if any, eligible for such distributions shall be established by the articles of incorporation.
- (b) Eligible persons may make applications for gifts, grants or loans to improve their personal conditions under standards prescribed by the by-laws subject to the approval of the Alaska Native Commission. If the purpose of the application is to allow the applicant to move himself or his family from the village or from Alaska, this shall not be a bar to approval of the application. Approval shall not be a bar to a subsequent application from the same applicant.
- (c) The corporation shall not distribute more than one hundred sixty (160) acres to any person, including all persons in his immediate family, and shall not distribute more than ten percent (10%) of the land it receives under the Federal Alaska Native Claims Act of 1968 in kind to applicants. The distribution shall be under standards prescribed by the by-laws subject to the approval of the Alaska Native Commission.
- (d) The corporation shall not distribute more than twenty percent (20%) of its other capital as distributions.

Section 310. Dissolution

During the period of one hundred (100) years after the effective date of this Act, any corporation may be dissolved only if the Alaska Native Commission determines that such dissolution would be in the best interests of the shareholders, which determination shall be subject to veto by the Governor of Alaska or the Secretary of the Interior.

Section 311. Merger and Consolidation

Any native group or native group corporation may merge with any other native group or native group corporation, or, together with all other native groups and native group corporations of the region, with the appropriate regional native association or corporation. Regional native associations and corporations may merge. All mergers shall be subject to the approval of the Alaska Native Commission, including those occurring before the date of this Act.

Section 312. Taxation

- (a) Lands held by a corporation and revenues therefrom shall be taxable to the extent provided by the Federal Alaska Natives Claims Act of 1968.
- (b) Royalties received by the corporation from grants made by the said Act or the State Native Claims Act of 1968 shall not be taxed to the corporation.
- (c) Dividends paid to shareholders shall be taxable to the shareholder.
- (d) Distributions during the period distributions are permitted shall not be taxable to the shareholders or other recipients.
- (e) Liquidation payments shall be taxable, but only to the extent of gain during the period the property was received and held by the commission.

Section 313. Rules and Regulations

The Alaska Native Commission may adopt rules and regulations to implement this chapter.

GENERAL PROVISIONS

Section 401. Contracts With The Alaska Division of Lands

A native group (or trustee therefor) may contract with the Alaska Division of Lands for the management of lands granted to it under this Act, provided that no sale, lease, exchange or other disposal of such lands may be made without the approval of the governing body of the native group (or the trustee). The contract may cover all or a portion of the lands of the native group, shall be terminable upon reasonable notice by either party, and shall provide for the terms of management by reference to law or regulation or otherwise.

Section 402. Exchange of Lands

Any native group which would otherwise be entitled to exercise preference right selection of native township grants on lands which however have been selected by and patented to the State of Alaska may obtain such lands if the same have not been disposed of by conveying land of equal value to the State

of Alaska, subject to such rules and regulation as may be made by the Alaska Native Commission.

Section 403. Definitions

As used in this Act, the terms "native group", "native", "Alaska native", "regional native association", "regional native corporation" and "outer continental shelf" shall have the meaning ascribed to such terms by the Federal Alaska Native Claims Act of 1968.

Section 404. Effective Date

The effective date of this Act shall be June 1, 1968.

ATTACHMENT D

CS FOR HOUSE BILL No. 672, IN THE LEGISLATURE OF THE STATE OF ALASKA, FIFTH LEGISLATURE, SECOND SESSION

A BILL For an Act entitled "An Act to provide for state contribution and action to encourage and facilitate final settlement of Alaska native land claims by the federal government; and providing for an effective date"

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

SECTION 1. DECLARATION OF INTENT. It is the policy of the State of Alaska 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 land claims. It is the position of the state that in accomplishing this purpose it is in the public interest to minimize procedural delays, remove technical obstacles, to create a public body composed of residents of Alaska with power to process, determine, and expedite the claims and to perform other functions to carry out the provisions of this Act. In order to facilitate and encourage a fair settlement of these land claims between the Alaska natives and the federal government, it is considered in the best interest of the state to make a reasonable contribution to the settlement on the part of the state, by providing that certain royalties or shares of the proceeds derived from state lands be made available to native groups in Alaska as compensation for relinquishment of part of their claims based on aboriginal use and occupancy of lands in Alaska, and thereby to settle with finality all such land claims of Alaska natives insofar as the State of Alaska is concerned.

Sec. 2. AS 38 is amended by adding a new chapter to read:

"Chapter 30. Alaska Native Claims State Settlement Act of 1968

"ARTICLE 1. ALASKA NATIVE COMMISSION

"SEC. 38.30.010. ACCEPTANCE OF FEDERAL COMMISSION. (a) If legislation is enacted by the United States before April 15, 1969, whereby a commission is created substantially like, and capable of performing the functions of, the Alaska Native Commission set out in this chapter, the state does hereby designate and constitute the commission as the agency for carrying out the Alaska Native Commission purposes and functions set out in this chapter.

"(b) Upon the enactment before April 15, 1969, of federal legislation creating such a commission, the governor shall determine whether it is substantially like, and capable of performing the functions of, the commission as set out in this chapter. If the governor determines in the affirmative, he shall certify and make public his determination, whereupon the federally created commission shall become the agency to perform the functions set out in this chapter, and the commission provided for in secs. 30-130 of this chapter shall not come into existence. If the governor determines in the negative, secs. 30-130 of this chapter become operable immediately.

"(c) If no legislation has been enacted by Congress by April 15, 1969, creating a commission to act in the matter of Alaska native land claims, secs. 30-130 of this chapter become operable immediately.

"SEC. 38.20.020. CRITERIA FOR DETERMINING ACCEPTABILITY OF FEDERAL COMMISSION. In making the determination under sec. 10 of this chapter the governor shall be guided by the following minimum standards of acceptability of a federal commission to discharge the functions set out in this chapter:

"(1) it must provide that the State of Alaska may vest powers in the commission provided by this chapter, except that any additional powers vested in the commission after the effective date of this chapter shall be subject to approval of Congress;

"(2) it must provide for staggered terms of office;

"(3) it must provide that at least a majority of its members be Alaska natives as defined in this chapter;

"(4) the Alaska residence requirements for members of the commission must be substantially the same as those prescribed in sec. 30 of this chapter;

"(5) the scope of judicial review of actions and final determinations of the commission must be at least as ample as that set out in sec. 130 of this chapter;

"(6) it must be empowered to make final determinations of the matters committed to it by this chapter, where this chapter requires final determinations.

"SEC. 38.30.030. CREATION OF STATE COMMISSION. There is created in the office of the governor an Alaska Native Commission to exercise the duties and powers conferred upon it by this chapter. The commission shall be considered as the head of a regulatory and quasi-judicial agency of the state. The commission consists of seven members, appointed by the governor and confirmed by a majority of the members of the legislature in joint session. At least four members shall be Alaska natives as defined in this chapter. Each member of the commission shall have been a resident of Alaska continuously for at least five years before his appointment and must remain a resident during his term of office. In appointing members of the commission due regard shall be given to obtaining fair geographic and ethnic representation.

"SEC. 38.30.040. TERMS OF OFFICE. The members initially appointed by the governor shall be given terms of office of one, two, three, four, five, six and seven years respectively, the terms to commence upon the day the sections of this chapter concerning an Alaska Native Commission become operable. Their successors shall be appointed for terms of seven years by the governor in the same manner and subject to the same qualifications as the initial appointments, except that a person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he succeeds. Upon the expiration of his term of office a member shall continue to serve until his successor has been appointed and is qualified to take office. The members of the commission shall choose a chairman from the commission's membership. Any commissioner may be removed by the governor for inefficiency, neglect of duty, malfeasance in office, or engaging in conduct which violates any conflict of interest laws of the state, and such removal and determination by the governor is not subject to judicial review.

"SEC. 38.30.050. COMPENSATION. The commissioners shall be paid compensation in the sum of \$35 for each day in which they are engaged in the performance of their official duties. They shall also be reimbursed for expenses which have been authorized by the commission.

"SEC. 38.30.060. NOMINATIONS. Any organization recognized by the Secretary of the Interior (or if there be none recognized by him, by the governor) to speak for the Alaska natives on a statewide basis and the statewide native corporation shall each be given the opportunity to recommend prospective appointees to the commission, but the governor is not limited by the recommendations in his exercise of appointive power.

"SEC. 38.30.070. LOCATION. The commission shall have its offices and hold its meetings in the state at a place to be determined by the commission.

"SEC. 38.30.080. EMPLOYEES AND COMPENSATION. (a) The commission may employ an executive director with the concurrence of the governor. The executive director position shall be in the partially exempt service and the salary shall be as specified in AS 39.27. The commission may employ other personnel and may incur any expenses it deems necessary in the performance of its duties subject to available appropriations. All the personnel hired by the commission shall be in the partially exempt service and their salaries shall be as specified in AS 39.27.

"(b) The transactions of the commission shall be subject to preaudit and post audit.

"SEC. 38.30.090. PROCEDURE. The commission shall have power to establish its own rules of procedure, and the time and place of its meetings. The commission shall not be subject to the Alaska Administrative Procedure Act (AS 44.62) as to functions of an adjudicatory nature. A quorum consists of four members.

"SEC. 38.30.100. JURISDICTION AND POWERS. (a) The commission shall carry out the functions delegated it by this chapter and may also accept and carry out the functions delegated to it by the Secretary of the Interior, such as the preparation of official rolls of native groups, if the acceptance of the latter delegated

functions do not increase the expense of commission operations which would otherwise be entailed under the appropriations made by the legislature.

"(b) The functions of the commission may include, but are not limited to—

"(1) determination, if authorized by federal law, of the aboriginal use and occupancy of Alaska lands by native groups, the geographical extent thereof, and the boundaries of occupancy attaching to villages and regions;

"(2) determination of the number and location of the groups to be recognized officially by the commission;

"(3) preparation of an official roster of groups of natives eligible to receive the benefits granted by this chapter and by the laws of Alaska;

"(4) investigation of all matters which are the proper subjects of its action, with the power to call upon any of the departments of the state government for information it considers necessary to perform its duties and functions;

"(5) the exercise of any power necessary to carry out the purposes of this chapter; and

"(6) the exercise of any other powers which may be provided by state or federal law.

"(c) The commission shall give reasonable notice to the interested parties before it and an opportunity to be heard before making a final determination on any disputed matter.

"SEC. 38.30.110. TESTIMONY OF WITNESSES. A member or employee of the commission, designated in writing by the chairman for that purpose, may administer oaths and examine witnesses. The chairman of the commission, or in his absence, the vice chairman, may in the same manner as a party to litigation, but without costs, apply to the superior court for issuance of subpoenas requiring (1) the attendance and testimony of witnesses and the production of all necessary books, papers, documents, correspondence, and any other evidence from any place in the state at any designated place of hearing within Alaska, or (2) the taking of depositions before a designated individual who is authorized to administer oaths under the laws of Alaska or any other state. In taking testimony, opportunity is to be given for attendance and examination of the witness by any party who might be adversely affected by the commission's actions.

"SEC. 38.30.102. FINAL DETERMINATIONS. The final determinations of the commission in any matter which is disputed before it and in any matter which will be irrevocably binding upon the persons affected, shall be in writing, filed with the commission, and shall set forth the operative facts upon which its determination is based, the reasons in support of its determination, and a definite statement of the determination that is made by the commission.

SEC. 38.30.130. JUDICIAL REVIEW. (a) The actions and final determinations of the commission may be reviewed at the instance of a person adversely affected by commission actions or determinations, by a petition for review filed in the superior court. In considering a petition for review the court shall be limited to considering and deciding only the following questions:

"(1) whether any specific provision of this chapter, the Constitution of the United States, or the Constitution of the State of Alaska has been violated;

"(2) whether the commission acted capriciously or arbitrarily;

"(3) whether there is information, published or written material, evidence, or other data within the record to sustain the findings, recommendations, decisions, or actions of the commission as being reasonable;

"(4) whether the commission acted within the powers granted it under this chapter.

"(b) The court may remand the matter reviewed for further proceedings as are required under this chapter and may grant other appropriate judicial relief.

"ARTICLE 2. ROYALTY

"SEC. 38.30.140. RIGHT TO PROCEEDS. (a) If they present land freeze imposed by the United States Department of the Interior is unconditionally removed and terminated on or before October 10, 1968, the natives of Alaska are hereby granted the right to a royalty and share equal to five percent of the proceeds made subject to this chapter under sec. 160 hereof, until the amount received from the state in accordance with sec. 180 of this chapter totals \$50,000,000.

"(b) In the event the land freeze is removed in accordance with (a) of this section but is subsequently reimposed, the Alaska natives' right to proceeds under (a) of this section shall terminate.

"(c) The phrase 'land freeze' as used in this section means (1) the failure or refusal on the part of the United States Department of the Interior to dispose of public lands in Alaska under the Public Land Laws of the United States, including without limitation the Alaska Statehood Act (72 Stat. 339), because of the pendency of native land claims or protests; or (2) any temporary withdrawal by the United States Department of the Interior of any public lands in Alaska retained in effect, or made after the effective date of this chapter, because of the pendency of native land claims.

"SEC. 38.30.150. PROPERTY INTEREST. Except as provided in secs. 140-160 and secs. 170(b), and (f) and 340 of this chapter, the royalty or share of proceeds granted in this chapter is an irrevocable grant, and the right of Alaska natives to the same vests on the day this chapter becomes law, subject to their acceptance in accordance with sec. 340 of this chapter.

"SEC. 38.30.160. ROYALTY SOURCES. The proceeds subject to this chapter are all monetary revenues, other than taxes and receipts from licenses, received by the state, after the effective date of this chapter, from the sale, lease, exchange, or other disposal of lands which are or have been selected by the state under sec. 6(a) and (b) of the Alaska Statehood Act (72 Stat. 339), as amended except those lands which are or have been under state lease or contract on or before the effective date of this chapter.

"SEC. 38.30.170. DISTRIBUTION OF PROCEEDS. (a) The royalty or share of proceeds granted under sec. 140 of this chapter shall be distributed to three classes of recipients: (1) 75 per cent to incorporated native groups; (2) 20 per cent to regional native corporations; and (3) five per cent to the statewide native corporation.

"(b) Fifty per cent of the total proceeds distributed under (a) of this section to each native corporation shall be used for construction and maintenance of public works projects.

"(c) The apportionment of the royalty shall be based upon the number of persons on the final rolls and distribution shall be made under rules and regulations adopted by the commission.

"(d) A copy of an annual report of all expenditures of funds granted under this chapter made by recipients under (a) of this section shall be submitted annually to the office of the governor.

"(e) The money apportioned to each corporation shall be used in accordance with the annual budgets prepared by the corporation, submitted to and not disapproved by the commission.

"(f) If in the judgment of the commission, a court of competent jurisdiction or the legislative audit committee the the proceeds distributed to a recipient under this chapter are not used in the manner prescribed in (b) of this section, there shall be withheld from the next annual appropriation of royalties owing the recipient under this chapter a sum equal to the amount improperly spent. The amount so withheld shall be distributed to the recipient only upon certification by the legislative audit committee to the legislature that the ratio of expenditures required under (b) of this section has been adjusted by the non-complying recipient native corporation in such a manner that the corporation is now in compliance with (b) of this section. When the amount which would have been received from the state under secs. 140 and 180 of this chapter equals \$50,000,000 except for the provisions of this subsection, the amount being withheld by the state shall be considered forfeited by the noncomplying native corporation and shall revert to the state's general fund.

"SEC. 38.30.180. TRUST AND ADVANCE ROYALTY. (a) The royalty and share of proceeds to which a recipient corporation is entitled under secs. 140-170 of this chapter shall be received and held in trust by the state. After the final rolls have been completed and the apportionment of each recipient corporation determined, the legislature shall annually appropriate to the designated recipients the royalty and share of proceeds held in trust by the state.

"(b) Commencing in fiscal 1968-1969, if the amount accumulated in trust each fiscal year does not equal at least \$500,000, the difference between the amount accumulated and the sum of \$500,000 shall be appropriated out of the general fund as an advance on the royalty payments and shall be payable on July 1 of the second succeeding fiscal year. If any sums are advanced out of the general fund in accordance with this subsection, the amount of the funds advanced shall be repaid the state by transferring to the general fund one-half of any excess over \$500,000 that may be accumulated in trust during any subsequent fiscal year until such advances have been repaid in full.

"ARTICLE 3. INCORPORATION OF NATIVE GROUPS

"SEC. 38.30.190. CERTIFICATE OF INCORPORATION. Under rules and regulations which the Alaska Native Commission may prescribe, each native group, regional native corporation, and the statewide native corporation entitled to benefits under this chapter or the Federal Alaska Native Claims Act of 1968 shall incorporate under the Alaska Business Corporation Act, as modified by this chapter and said rules and regulations, except those native groups which elect to incorporate or remain incorporated under the Indian Reorganization Act. Until 100 years after the effective date of this chapter the articles of incorporation and all amendments shall be subject to the approval of the commission.

"SEC. 38.30.200. MEMBERSHIP AND STOCK. (a) All natives enrolled on the rolls of the native group incorporated or to be incorporated under the Federal Alaska Native Claims Act of 1968 shall be the initial members and shareholders of the incorporated native group. Each membership shall be represented by 100 shares of the capital stock of the corporation, of no par value, which shall be issued to each member.

"(b) Shares of stock shall be inalienable from the first holder of the shares, by operation of law or otherwise, except upon his death when the shares shall pass by devise or inheritance free of any claims against the estate. When ownership of shares passes by devise or inheritance, such shares shall be partitioned, so far as may be practicable, in whole shares among those entitled to them. The corporation shall retire by purchase any shares in which fractional interests valued at less than \$100 exist.

"(c) The second holder of shares of stock must be, or be descended from at least, one of the first members of any native group incorporated under sec. 190 until 50 years after the effective date of this chapter. Thereafter, the stock shall be freely alienable, provided that the corporation may adopt any provision restricting stock ownership permitted ordinary business corporations.

"(d) A person not entitled to hold stock may lawfully acquire stock by devise or inheritance, in which event the corporation shall purchase the stock at its fair value.

"SEC. 38.30.210. VOTING RIGHTS. All shares shall carry voting rights and cumulative voting is required. Stock held by a minor may be voted by his parent or guardian.

"SEC. 38.30.220. PURPOSE. (a) The corporations may carry on any lawful business permitted by the Alaska Business Corporation Act in Alaska, and, with the consent of the commission, outside of Alaska. All investments in securities shall be in accordance with an investment program which makes provisions for skilled investment counsel.

"(b) To the extent permitted by its articles and bylaws, the corporation may make distributions from earned surplus or capital as gifts, grants or loans to shareholders, descendants of the first holders of the shares of the corporation and to persons of at least one-sixteenth native blood who would have been eligible for membership as a first holder but for the lack of sufficient blood quantum and who are enrolled by the corporation upon a special roll, provided that no gifts or grants shall be made after 50 years from the effective date of this chapter. The corporation may at any time make charitable and educational donations as allowed by the Alaska Business Corporation Act.

"(c) The regional corporations may make distributions from earned surplus or capital as grants or loans to native group corporations of the region of such regional corporation and to municipal corporations and native villages within the region.

"(d) The statewide corporation may make distributions from earned surplus or capital as grants or loans to regional corporations or native group corporations.

"SEC. 38.30.230. CAPITAL. The capital of the corporation shall consist of the land conveyed to the corporation by the United States under the Federal Alaska Native Claims Act of 1968, entered at its fair market value upon receiving the conveyance therefore, the money received under the Act, and the money received from the royalty and share in revenues granted by this chapter.

"SEC. 38.30.240. CORPORATION NOT A GOVERNMENT INSTRUMENTALITY. A corporation organized under this chapter shall not be an agency or instrumentality of the State of Alaska or of the United States for any purpose, and the state and the United States shall not be responsible for the corporation's actions or debts unless specifically guaranteed or insured.

"SEC. 38.30.250. RESIDENCE RESTRICTIONS. Residence shall not be restricted, and residence or proposed residence shall not be made a restriction on membership

or shareholding, voting of shares, or receipt of benefits from the corporation, provided that distribution of land in kind for townsite lots, fish camp sites, or other aboriginal use may be limited to residents, but continued residence shall not be made a condition of any such distribution of land in kind.

"SEC. 38.30.260. PROHIBITION ON PER CAPITA DISTRIBUTIONS. The corporation shall not make any per capita distribution, except as permitted by secs. 220(b) and 270 of this chapter. The corporation may declare and pay dividends as any other business corporation. Distributions in partial liquidation or liquidation may be made after 100 years after the effective date of this chapter.

"SEC. 38.30.270. LIMITS ON DISTRIBUTIONS. Distributions under sec. 220(b) of this chapter are subject to the following provisions:

"(1) eligibility of persons for distributions shall be established by the articles of incorporation;

"(2) eligible persons may make applications for gifts, grants or loans to improve their personal conditions under standards prescribed by the bylaws subject to the approval of the Alaska Native Commission; if the purpose of the application is to allow the applicant to move himself or his family from the village or from Alaska, this shall not be a bar to approval of the application; approval is not a bar to a subsequent application from the same applicant;

"(3) the corporation shall not distribute more than 160 acres to any person, including all persons in his immediate family, and shall not distribute more than 10 per cent of the land it receives under the Federal Alaska Native Claims Act of 1968 in kind to applicants; the distribution shall be under standards prescribed by the bylaws subject to the approval of the Alaska Native Commission;

"(4) other than land, the corporation shall not distribute as distributions more than 10 per cent of the royalty received from the state under this chapter nor more than 20 per cent of its other capital.

"SEC. 38.30.280. DISSOLUTION. During the period of 100 years after the effective date of this chapter, any corporation may be dissolved only if the Alaska Native Commission determines that the dissolution would be in the best interests of the shareholders.

"SEC. 38.30.290. MERGER AND CONSOLIDATION. A native group corporation may merge with any other native group corporation, or, together with all other native group corporations of the region, with the appropriate regional native association or corporation. Regional native associations and corporations may merge. All mergers shall be subject to the approval of the Alaska Native Commission.

"SEC. 38.30.300. TAXATION. (a) Lands held by a native corporation authorized by this chapter and revenues from these lands shall be taxable except to the extent prohibited by federal law.

"(b) Royalties received by the corporation from grants made by the Federal Alaska Native Claims Act of 1968 or this chapter shall not be taxed to the corporation.

"(c) Dividends paid to shareholders shall be taxable to the shareholder.

"(d) Distributions from capital during the period distributions are permitted shall not be taxable to the shareholders or other recipients.

"(e) Liquidation payments shall be taxable, but only to the extent of gain during the period the property was received and held by the corporation.

"SEC. 38.30.310. RULES AND REGULATIONS. The commission may adopt rules and regulations to implement secs. 190-300 of this chapter.

"ARTICLE 4. GENERAL PROVISIONS.

"SEC. 38.30.320. CONTRACTS WITH THE ALASKA DIVISION OF LANDS. A native group may contract with the state division of lands for the management of lands, provided that no sale, lease, exchange or other disposal of such lands may be made without the approval of the governing body of the native group. The contract may cover all or a portion of the lands of the native group, shall be terminable upon reasonable notice by either party, and shall provide for the terms of management by reference to law or regulation or otherwise. The Department of Natural Resources is authorized to receive and expend, subject to appropriation, funds necessary to carry out its functions under this section.

"SEC. 38.30.330. EXCHANGE OF LANDS. With the consent of, and in accordance with regulations made by, the commission a native group which would otherwise be entitled to exercise preference right selection of native township grants on lands within their area of claims based on aboriginal use and occupancy, which

however have been selected by and patented to the state may obtain such lands, if the same have not been disposed of, by exchanging lands of equal value with the state.

"SEC. 38.30.340. EFFECT OF CHAPTER. (a) The royalty grant and other provisions contained in secs. 140-160 and secs. 170(a), (b), (d) and (f), 180, 340 and 350 of this chapter effect a final and complete contract of settlement of all native claims against the state and the natives of Alaska, by accepting any of the royalties granted in those sections, shall be deemed to have accepted, approved and ratified the grant and each and every term of the contract settlement and the contract thereby created shall not be impaired.

"(b) If within six years after the effective date of this chapter none of the royalty is accepted by the natives of Alaska in accordance with (a) of this section, all royalty shares granted under this chapter, including those held in trust by the state, shall become null and void and shall revert to the state.

"SEC. 38.30.350. RESTRICTION ON STATE SELECTIONS. (a) If the present land freeze (as defined in sec. 140 of this chapter) imposed by the United States Department of the Interior is unconditionally removed and terminated on or before October 10, 1968, the state shall not, for a period of 18 months after the effective date of this chapter, exercise its right of selection under the Alaska Statehood Act outside of that area bounded on the east by 141° west longitude, on the west by 152° w. longitude, on the north by the 66° north latitude and on the south by the Pacific Ocean, unless it receives the prior consent of the native group which claims, on the basis of aboriginal use and occupancy, the area to be selected.

"SEC. 38.30.360. MUNICIPAL CORPORATIONS. This chapter does not prevent the incorporation of villages as municipal corporations, or the continued existence of villages which are municipal corporations, under state law.

"SEC. 38.30.370. SHORT TITLE. This chapter may be cited as the Alaska Native Claims State Settlement Act of 1968.

"SEC. 38.30.380. DEFINITIONS. In this chapter

"(1) 'commission' means the Alaska Native Commission established by this chapter or by federal act, as appropriate;

"(2) 'native' and 'Alaska native' means any Alaskan Indian, Eskimo, or Aleut, including but not limited to any Alaska native whose adoptive parent is not an Alaska native, of at least one-fourth degree Indian, Eskimo, or Aleut blood or, in the absence of proof of a minimum blood quantum, who is regarded as native by the native group in which he claims enrollment, and whose father or mother was regarded as native by that or any other native group;

"(3) 'native group' means tribe, band, village, community association, or other identifiable group of Indians, Aleuts, or Eskimos of Alaska, resident in Alaska, including identifiable groups of residents of a locality which, as such a group, claims Indian title to land in Alaska by virtue of aboriginal use and occupancy at any time; 'group' or 'native group' may, when appropriate, include not only 'native group' but also 'regional native association', 'regional native corporation' and the 'statewide native corporation';

"(4) 'regional native association' means an association of natives or native groups organized to represent the interests of the natives of a region of Alaska which is greater than the area occupied or formerly occupied by an historic native group; the interests of native groups within the region may be merged in the regional association;

"(5) 'regional native corporation' means a corporation organized under the laws of Alaska and this chapter, representing the interests of the natives of a particular region of Alaska; the interests of native groups within the region may be merged in the regional native corporation."

Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

Mr. JACKSON. My testimony is directed at several points. First, the test case of the State of Alaska versus Udall.

Secondly, the task force proposal developed by the task force appointed by Governor Hickel.

Finally, I intended to present the proposals of the Alaska Native Federation, which are the amendments which we propose to Secretary Udall's proposal of April 30.

I have attached to the statement, which may not be pertinent, our commentary to the Federal Alaska Native Claims Act before you as H.R. 15049 as prepared by the drafter. The commentary on the State act as prepared by the drafters. The proposed State bill, the bill as actually adopted by the Alaska Legislature. A copy of the Alaska review of business and economic condition on the problem of native land claims which apparently is not to be included in the file, and certain extracts of testimony intended to illustrate certain points of my testimony as to the position of the Alaska natives.

Finally, an indication from both parties in Alaska that they support a settlement of these claims.

As a principal draftsman of the AFN proposal—that is to say, our amendment to Secretary Udall's latest proposal; also of the State bill and of the commentary which has been prepared, I am prepared to answer questions on these documents or review with you the proposals in detail, or with your staff. I have discussed the test case but I think the key point on the test case is simply regardless of the outcome of the test case Congress will still be faced with the necessity of passing some kind of legislation. Traditionally, this has been a jurisdictional act. We believe a jurisdictional act, whether it is for a single case on behalf of all Alaskans as the Californian Indians did, or whether it is by each of the separate villages, in either case extended litigation is not in the interest of the natives or of the State of Alaska and we prefer a legislative-type settlement which is what Governor Hickel's task force has proposed. Others have discussed money and the amount of land and I wish to discuss the fourth part of the task force proposal where the discussion begins on page 8. The fourth part is the scheme for administering the lands and the moneys. This is as important as the land and money itself. Is the land and money to be squandered in per capita payments or eaten up in bureaucratic administrative costs? We propose to avoid both extremes. The natives in Alaska are very vehemently antireservation. They would like to participate as fully as possible in the life of the State and in Alaskan society.

We have separated the native village as a municipal corporation from the native village as an incorporated tribal enterprise. And the lands and the money will be going to the incorporated tribal entity which will be gradually transformed into an ordinary business corporation with shares that are fairly alienable. This is a gradual process. It is controlled by the Alaska native commission. We have eliminated per capita grants as such. We have said, however, that the native corporation may grant to the individual members townsite lots, fish-camp sites, and so on, but not more than 10 percent of the land may be distributed in this manner and not more than 160 acres to any one person or family.

We have also said that they may make what we call family-plan distribution, but not more than 20 percent of the capital of the corporation may be so distributed in family-plan-type distributions.

Now this, of course, is a type of per capita distribution. We recognize that, but the experience with Tyonek has been that this can be a very helpful method of improving the status of the members of the tribe. Generally, however, the State law requires that the capital of the corporation be kept intact to be invested in business enterprises, and that in the long run, over the long term, the members of the cor-

poration will benefit primarily by being stockholders of the business enterprise, receiving dividends. Hopefully the business enterprise will make certain that natives are hired in positions of responsibility. The Tyoneks, for example, own a construction company which built a BIA building which is also owned by the Tyoneks. They own a title company in Anchorage; they have a major interest in a utility company in Anchorage. These enterprises in the long term will be of benefit to individual members of the tribe. We hope to use the capital in this fashion. We hope to use the land in this fashion and not as a reservation.

Now, as we are trying to get away from the BIA, frankly, and from the Secretary of the Interior and accomplish a transition into American society. Also we want to preserve for the Indians as well as for the whites the mobility which exists in American society today. We are trying to build in provisions which will prevent us from having our villages "frozen in history."

I have attached certain extracts of statements by natives and others to illustrate.

Educated Alaskan natives have become just as highly mobile as other Americans and they should be permitted to be so and at the same time be permitted to share in their patrimony.

The task force proposal is an attempt to make some changes; it is an attempt to look a hundred years ahead and provide the transition and to provide for as early a transition as possible.

The Alaska Federation of Natives has decided to respond positively by preparing amendments to the administration bill rather than insisting on the task force proposal, S. 2906/H.R. 15049. And with appropriate amendments and future modification of the State law, CSHB 672 (finance), the best and most important features of the task force proposal can be melded with the administration bill to produce a compromise that will be acceptable to the great majority of Alaska's natives.

The draft, which follows, underlines proposed new language and strikes through language to be stricken, in order to facilitate understanding of our proposed amendments..

I might say this is based upon the bill as submitted by the Secretary and not the bill that is before you. There have been some changes made by your staff in the bill before you, some of which I now note may be somewhat substantive and we will submit our comments on these changes, if we are permitted to do so, at a later time.

Mr. Chairman, does the committee desire a quick review of the proposed amendments? If not, that completes the summary of my testimony.

Mr. HALEY. Does that complete your statement?

Mr. JACKSON. Yes, sir, unless you wish a review of the amendments.

Mr. HALEY. Are there any questions?

Mr. ASPINALL. Mr. Chairman, I wish to commend these witnesses from Alaska for the thoroughness of their statements and the positions which they take.

As I understand it, Mr. Notti, what the people of Alaska whom you people represent, desire is some 40 million acres of land, title to all values, surface and subsurface, and an amount of \$500 million. Is that correct?

Mr. NOTTI. Yes, sir.

Mr. ASPINALL. Let me ask you this: What are you giving up? What are the tribes or the clans, the Indians, Eskimos, and the Aleuts, what are you giving up for this request? What values do you think you are giving up in order to be entitled to these facts?

Mr. NOTTI. If I may respond as a layman and if there are legal gaps perhaps one of the lawyers would like to comment—we feel we have Indian title to all of Alaska and we are giving up this title to the United States and in return we are asking \$500 million compensation.

Mr. ASPINALL. You say you have legal title to all of the land. You are not claiming legal title to those 10 million acres of land which are in private or State ownership?

Mr. POLLOCK. I think he said he had "Indian" title to all of Alaska as distinct from "legal" title.

Mr. ASPINALL. Let me ask my friend: Do I understand we have people in the United States who are now claiming title to private property that has passed by official deed for a century of time?

Mr. POLLOCK. No, sir.

Mr. ASPINALL. That is what I was trying to get him to say. There are 375 million-plus acres of land in Alaska. I understand the people's demands are on 365 million acres of lands; is that correct?

Mr. NOTTI. Yes, sir.

Mr. ASPINALL. The other 10 million is either in private ownership or belongs to the State, is that correct, or do you still say that you have claim to that land?

Mr. NOTTI. Yes.

Mr. ASPINALL. You still claim that land?

Mr. NOTTI. Yes, sir; we do.

Mr. ASPINALL. As I understand the last witness, it is your feeling that you have a good cause of action, Mr. Jackson, to go before the courts and receive redress.

Mr. JACKSON. Mr. Chairman, only if this Congress gives some kind of a jurisdictional act.

Mr. ASPINALL. What's that?

Mr. JACKSON. Only if the Congress gives jurisdictional act can we sue.

Mr. ASPINALL. In other words, Congress then, in order to further your rights, has either got to take cognizance of the situation that Mr. Notti talked about and give it to the Indians, or the natives—not Indians—give 40 million acres plus \$500 million, or give to the people of Alaska the authority to go into court and press their claim.

Mr. JACKSON. Yes, sir; and it has been the traditional approach to follow the latter course and go in only for compensation.

Mr. ASPINALL. You here already have 11 tribes that have gone into court under the Indian Claims Commission.

Mr. JACKSON. This is correct, but there are problems with this. First of all, a number of those—

Mr. ASPINALL. I didn't ask you about the problems. I mean that some of you have accepted the responsibility of going in and you find yourself in difficulty at the present time under the Indian claims procedure, isn't that right?

Mr. JACKSON. There are difficulties. There has been no taking and most of them do not have attorneys.

Mr. ASPINALL. We have made provision in the last act, have we not, Mr. Sigler, for attorneys to be secured?

Mr. SIGLER. We have provided for loan funds to the tribes to hire attorneys.

Mr. ASPINALL. As I understand it, you people don't stand in the position where you can get a loan because you don't have any regularly constituted tribal government in most instances, is that correct?

Mr. JACKSON. In most instances most of the claims have been filed by individual villages. An exception is the Aleut League which we will hear from shortly and which is prosecuting its claim.

Mr. ASPINALL. Let me ask you this: How much blood does a resident of Alaska have to have in order to be considered a native? I have always understood that we had no bar to integration in Alaska; that it was similar in most respects to Hawaii and that blood, as such, didn't make any difference, or color didn't make any difference. Now, what percentage of blood entitles one to be called a native?

Mr. JACKSON. Generally the Bureau of Indian Affairs extends benefits to those of quarter blood or more. Our bill and the Secretary's bill both use this as a definition. Our bill and the Secretary's bill in certain instances permits benefits to be extended to those of lesser blood; generally quarter blood is taken.

Mr. ASPINALL. I was going to let you stand on that quarter blood but when you begin to refer to lesser blood, how far down the line do you want to go?

Mr. JACKSON. Well, Mr. Chairman, the question arises, if you are going to handle this in private property concepts, and a person of quarter blood has children who are one-eighth blood, is he required to give up rights and property or is he able to pass them on to his children? Such problems as this require us to permit extensions beyond quarter blood, but generally speaking quarter blood is the definition.

Mr. ASPINALL. There is no Saxon or a descendant of an old Saxon whose properties were not taken away from him by the Norsemen. I am beginning to get a little bit interested in rights I might have across the sea that I don't know anything about. That is just in fun.

Mr. POLLOCK. I think Mr. Lekanof testifies, one of the issues he wants to bring up, is this problem of the quarter blood.

Mr. ASPINALL. Very well.

Now, Mr. Groh, you say your firm now represents some 11 tribes. What kind of contracts do you have with those 11 tribes?

Mr. GROH. For all of those that are individual villages, I do have contracts. The Bureau of Indian Affairs presently takes the position that they will not recognize what we call association contracts. For example, the Seward Peninsula Native Association out of Nome; they take the position that although these people have banded themselves together into a regional association, that regional association does not have recognition by the BIA. So they do not recognize those contracts. They have not approved any of those contracts.

Mr. ASPINALL. If Congress would be beneficent enough to see to it that you folks got the 40 million acres of land plus the \$500 million, what would be the percentage of the attorneys' take under the agreement that you presently have?

Mr. GROH. Under the agreements I presently have, sir, it is completely within the discretion of the Secretary of the Interior.

Mr. ASPINALL. The usual slice is about 10 percent, is that correct?

Mr. GROH. Mr. Chairman, I honestly don't have any experience with either side. I have had no cases with them. I have heard all kinds of stories as to whether he is generous or not generous; I don't know.

Mr. ASPINALL. Are you being paid at the present time for your services?

Mr. GROH. No, sir.

Mr. ASPINALL. Are you being paid for your expenses to make this trip?

Mr. GROH. Yes, sir.

Mr. ASPINALL. By the Indian Association?

Mr. GROH. By the Alaskan Federation of Natives; yes, sir.

Mr. ASPINALL. By a nonprofit group; is that correct?

Mr. GROH. Yes, sir.

Mr. ASPINALL. Subsisting solely by private donations?

Mr. GROH. Yes, sir.

Mr. POLLOCK. Mr. Chairman, I wonder if it might, for the record, be useful to have one of the counsel, Mr. Jackson or Mr. Groh, very briefly explain what they understand to be Indian title. Mr. Notti said the natives believe they have Indian title to all of Alaska.

Mr. JACKSON. Mr. Chairman, Mr. Groh may wish to supplement this, but Indian title, as I see it, is the right of occupancy and the right in theory to prevent others from using the land that you use and occupy and have from time immemorial. Unfortunately, the Indians cannot sue and remedy is generally denied them and it is up to the Secretary to protect their right of occupancy, their Indian title.

Mr. ASPINALL. If my colleague would yield there, I think we have to go a little bit further than that. The Secretary doesn't have jurisdiction over this land. This land is under the jurisdiction of the Congress of the United States. The Secretary has some administrative authority. The Secretary can't make these determinations and when you found your title claim upon occupancy and possession then, you see, you are in a little difficult position because you can't defend that position unless you come to Congress and ask for an equitable determination. Isn't that true?

Mr. JACKSON. As far as getting some relief is concerned, I would say "Yes."

Mr. ASPINALL. As far as holding the land is concerned, you can't do it. You can't move from one place to another. It is true the associations can establish themselves in particular areas—and they have already done that—and perhaps they can move in at the present time and pick up a new site to live on for a while, as nomads would do. But as far as establishing any claim to keep the Government out or anybody else out, your occupancy doesn't go that far.

Mr. JACKSON. This may be. It was my understanding, for example, an Indian who has a trapline—and I know of a case—finds a white trapper comes in without making formal entry under the public land laws and says to the Indian, "Do not cross this place." He is a trespasser and the Indian can do nothing about it but the United States can do something about it.

Mr. ASPINALL. That is it. The land is in the ownership of the U.S. Government at the present time. I am sorry to say, but it is my understanding that the people who occupy this land do so simply as squatters

upon land belonging to the United States. This is the difficulty that we are trying to clear up. We are trying to establish the titles. Is that right or am I wrong?

Mr. JACKSON. I would disagree with you, but I may be in error, Mr. Chairman.

Mr. ASPINALL. I don't want to be agreed with just for the sake of agreement. I want to disagree in an agreeable manner. If you have something to offer, I would like for you to offer it to me.

Mr. BORBRIDGE. May I speak to this?

Mr. ASPINALL. You may comment.

Mr. BORBRIDGE. We realize Indian title can be extinguished at the will of Congress and we are not saying this is a right Congress may not invade, but at the same time we are appealing to Congress as a matter of consistency with its whole policy of dealing with the extinguishment of Indian title, the very unique feature in Alaska that makes it so far different from almost any other situation similar to this, is that there is presently existing Indian title where there has been no extinguishment whatsoever. We realize here then that while historically—and this is almost redundant to say so, but while historically this has been extinguished through treaty and later through executive agreements and finally the course of adjudicatory process, in this instance we are asking for political negotiation.

Mr. ASPINALL. I understand that, but in reality, when the treaty was signed between the two Governments, Russia and the United States, as far as legal rights were concerned, the natives' rights, as such, to any particular property were extinguished.

Mr. BORBRIDGE. May I address myself to that?

Mr. ASPINALL. Yes.

Mr. BORBRIDGE. Congressman, in 1968, in January, the Court of Claims held in the case of the *Tlingit-Haida Indians v. The United States*, Docket 47900, that the Indian title still survived. There had been no extinguishing whatsoever. This was one instance where the Tlingit-Haida Indians, by virtue of the jurisdictional act of 1935, were able to get into court so this is presently a judicial term that there can be and is a survival of Indian title as of this date.

Mr. ASPINALL. But it is all dependent on congressional action to make it possible for a decision, isn't that correct?

Mr. BORBRIDGE. Not only is that correct, but I would say I have confidence that Congress will follow its past policies of assuring that such extinguishment will have as a party to this extinguishment the people who claim this Indian title.

Mr. POLLOCK. Mr. Chairman, I would like to make a comment about this. Under the treaty of cession in 1867 there were rights of the Indians that were preserved and not extinguished. As you very well know about the statehood-enabling legislation in 1958, this same thing was continued so that their status, whatever it was, would be preserved and not extinguished.

Mr. ASPINALL. Of course, that is what I was trying to get to, to fix up the record, whatever it was. The Russians didn't recognize anything because they ran rampant over the people of Alaska. This is what I was trying to get to. Whatever they wanted, they took, and they were doing that even up to the time it was ceded to the United States.

Mr. POLLOCK. If I may comment further, under the research document which I have included as part of the record this morning, there is a very detailed explanation of this difficult area where the Russians thought of the natives as being of three separate categories and they treated them differently. They assumed that some became full American citizens if they didn't go back to Russia in 3 years. For the others, they determined that the Congress would at some future time—the United States said when they picked this up from Russia—at some future time would define their rights and determine how possession was to be established.

Mr. ASPINALL. The reason that I asked you to yield and the reason that I carried on this interrogation was to see whether or not Congress should accept the responsibility of saying, "All right, we will give you 40 million acres of land and \$500 million, or we will give you the right to go into the courts and make a determination."

I know which one is the fastest. I know which one perhaps would be the less expensive for the Indians. I don't know at the present time which one would be the most equitable as far as results are concerned.

Mr. POLLOCK. Mr. Chairman, if I might respond to this, I think from the time of the 1867 Treaty of Cessions the Congress, as we Alaskans understand it, has reserved to itself the right to make this final determination.

Mr. ASPINALL. That is right, but I don't know which way to go at the present time.

Mr. JACKSON. Mr. Chairman, may I complete an answer?

Mr. Chairman, you asked what lands were in Indian title and the answer, perhaps correctly, is that the lands that are in use and occupancy today are still in Indian title. The lands which have gone into private ownership, there has been in fact a taking. Some of the lands have gone into national forests and national parks. There has been a taking. Here the only right traditionally is one of compensation and not of land itself.

In the third case, there is good title in the government and the Indian title has been extinguished.

Mr. ASPINALL. When you get to the title of my little home in Palisades, Colo., it is founded upon a taking by the United States of America from Ute Indians. Whether it was right or wrong, it was founded upon that taking. I am not of the opinion that the Federal Government is going to go back now and state that the Ute Indians, after they had this taking, that we are going to say, "We are going to see that you get more money."

I think the title to my property is pretty well founded and I think the title to the property as such, where it is owned by the individuals and by the State, is pretty well founded and if we try to go behind that, I think we are going to be in trouble.

Mr. JACKSON. I want to emphasize that most of Alaska is still held in use and occupancy by the natives. Originally the first proposal that the Alaskan natives came up with was compensation for the lands that had been taken and fee title to all of the rest. This would have been impossible. It would have meant something like 300 million acres in the fee title to the natives. We have attempted to come up with a compromise with some land and some money and that is what we are asking of Congress.

In the last analysis, it will be up to Congress to dispose of this issue with such land and money as they deem to be proper. What we are asking for is 40 million and \$400 million, however.

Mr. GROH. Mr. Chairman, I only wanted to add that, once this Indian title is established, it goes on until abandoned. Admittedly Congress must act on it, but it still persists.

Mr. POLLOCK. Mr. Jackson, I wonder if you would very quickly, for the purpose of record, indicate to the committee what the test case is, what is the subject matter and what you hope to achieve?

Mr. JACKSON. Mr. Chairman, Secretary Udall, several years ago, determined not to pass title from the United States to the State of Alaska or to other parties for that matter under public land laws until such time as Congress adopted legislation to resolve the problem of the native land claims.

The State of Alaska has brought suit in the nature of mandamus against Secretary Udall to require him, essentially, to pass title. That case is still in Federal District Court in the District of Alaska. The State of Alaska has filed a motion for summary judgment which has not been argued, but the briefs have been submitted. I might say that I represent an intervenor on the particular lands in question and we maintain in any event we are entitled to a hearing on the question as to whether we actually use and occupy the land and we have never had an evidentiary hearing on that issue at any stage.

Mr. POLLOCK. Thank you, Mr. Jackson.

Now, could you also for the record very briefly indicate what the nature of the major amendments are that you propose, for the proposal originally submitted by the Secretary?

Mr. JACKSON. Yes, Mr. Chairman. Turning to the AFN proposal, page 14 or 15 of my statement, first we have the problem of native children adopted by whites and the problem of the Aleuts which will be taken up by their representatives. We recognize through our amendments that native groups may be incorporated and under our proposal they will be incorporated under State law as business corporations, modified to some extent.

We have pointed out the real problem of need of the villages in withdrawn lands, especially for example on Nunivak Island where there are reindeer. The need of these villages to get some land—we have amended the proposal to permit the Secretary to grant any land in Alaska unless it is in a national park or monument or in some exceptions, within national forests we have expanded the concept of the land debate to permit land to be granted which may be suitable for future village sites, agriculture, grazing, recreation, mining, industry and other uses. In other words, not merely to burial grounds, airfields and water supply, which is essentially what is now in it.

We have broadened it also so that it is not necessary that the land be immediately contiguous to the village. It would be permissible for the Secretary to grant some land away from the village, providing it is still within the area claimed by Indian title by that particular village.

Then we have increased the amount of acreage from 50,000 for a village to a formula grant which gives the Secretary some chance to grant 40 million acres, but he has a discretion between minimum and maximum amounts in the grants.

We also request that he consult with the native groups before making the grants to them.

At page 4 we have provided that the land will not go in trust to the Secretary but rather will go in fee to the native group, except they have an option of having a trustee if they want it. However, we have also provided that they cannot dispose of any land without an approved land use plan—a land use plan approved by the Alaska Native Commission. Then we have brought back in the concepts of the regional native corporation. The Secretary's proposal has only the village group, the village group corporation, and the statewide. We have also provided for not more than 20 regional corporations and have given a portion of the proceeds of the settlement to the regional corporation.

Mr. POLLOCK. Are those the major points?

Mr. JACKSON. Then we have provided that the amount of the money grant would be computed as \$10,000 rather than \$3,000 per native, which would be estimated to be a total of \$500 million. However, in order to avoid the impact on the U.S. Treasury, we have provided it would be granted one-tenth or \$50 million in the first year and then \$25 million a year for 18 fiscal years. I am sorry. Compared to the present, which is \$60 million in the first year and then \$30 million a year for 4 years.

Finally, under the provisions for the Alaska Native Commission we have strengthened it by requiring that it shall be appointed with five members at least two of whom shall be Alaska natives or descendants, and directly under the Secretary, requiring also that the meeting place and principal offices shall be located in Alaska and that its final decisions are subject to judicial review.

Finally, under the national forestlands, which permits the lands granted to communities under the Statehood Act from national forests of 400,000 acres to be also granted to native groups. We have said 100,000 of the 400,000 shall be granted to the native groups. Otherwise that provision is purely permissive and is not going to be effective.

Finally, we noted that we have some problem with the Solicitor's Office at this time as far as our being paid is concerned, and there is a recognition in our amendments that attorneys who performed services incident to the legislative settlement should be paid. Again, an amount determined by the Secretary.

Mr. POLLOCK. Have you addressed these proposals to the Secretary?

Mr. JACKSON. He has not seen them. I believe I gave a copy to his office this morning. He knows about some of them. For example, I discussed with Mr. Vaughn the question of seating the Commission in Alaska and he agreed this was perfectly acceptable and should have been in there.

Mr. POLLOCK. I suppose you gentlemen realize ultimately when a decision is reached there is going to have to be some mutual understanding on the part of the natives, of the natives, the State of Alaska, the Department of Interior, and certainly the Congress. If the Department comes in with one proposal and the natives with another and the State with another, we have a situation where we can't really resolve the problem or won't get it resolved here probably.

Mr. JACKSON. We recognize this is an accommodation of conflicting interest.

Mr. POLLOCK. I would suggest that a formal presentation to the Secretary be made of your views so the Department could evaluate it in the light of their own proposal.

Thank you, Mr. Chairman.

Mr. HALEY. Are there further questions?

May I make this observation: Mr. Jackson, as I understand the testimony of the six witnesses we have before us here, you have two roads to travel. One through the courts and one through the Congress. Is that correct? And you would rather take the one through the Congress because the other would be a little doubtful. That is about the situation, isn't it?

Mr. JACKSON. Not merely doubtful, but a long time in coming in my opinion.

Mr. SIGLER. I would like to ask a question on the claim of Indian title. Mr. Jackson and Mr. Groh both referred to the fact that the natives claim aboriginal title to all of Alaska.

I understand them to qualify that statement to mean all that has not been alienated or has not passed into private ownership or some form of public ownership.

My question is, Have the natives filed any express claim to the remaining lands in Alaska? Have they filed it anywhere? I understand they have filed some claims with Interior but that those claims do not blanket all of Alaska. Am I correct or wrong?

Mr. GROH. For all practical purposes, Mr. Sigler, they do.

Mr. SIGLER. Your claims filed with the Department of the Interior do blanket the State?

Mr. GROH. Yes, sir.

Mr. JACKSON. They do not include the Aleutians which have brought an Indian claims case or southeast Alaska, which has a separate case, or certain limited areas in the interior of Alaska which have not yet filed claims. When these claims are considered, all or substantially all of the State is included.

This does not mean if we go to court we would be able to prove this.

Mr. SIGLER. That was to be my next question. Assuming you have filed claims blanketing most of Alaska, you still have the problem of substantiating those claims by showing that the natives do actually use and occupy the entire area. Do you think that the claim will be seriously disputed?

Mr. JACKSON. I am sure that the Department of Justice would, if they follow the usual course, dispute it very seriously. How much of it we will be able to prove in a claims proceeding I cannot at this time say but I feel it would be very substantial.

Mr. SIGLER. You believe it would be substantial?

Mr. JACKSON. Yes, sir.

Mr. SIGLER. That is all I have.

Mr. HALEY. Are there further questions?

Mr. ASPINALL. Mr. Chairman, just for the benefit of the record, and that is all, and realizing that an Alaskan is an Alaskan, I would like to know if there are any members appearing before us today of those six who would themselves be entitlees to any award that would be granted.

Mr. WRIGHT. Yes.

Mr. NOTTI. Amil Notti.

Mr. BORBRIDGE. John Borbridge.

Mr. HENSLEY. Yes; I would be entitled. There are four of us.

Mr. BORBRIDGE. Would it be possible to interpolate one brief comment at this point?

Mr. HALEY. Yes.

Mr. BORBRIDGE. Thank you. I think the point we want to emphasize, and I think you have addressed yourself to it very thoroughly, we do have a very rare situation. I know in many senses as we discuss Indian title it has a certain technical ring to it and it is a different kind of an animal, but we can go into the villages of Alaska now, Indian, Alaskan, and Aleut villages. There is no question whatsoever. They are on the land; they live on it, and use it and if you ask them, Mr. Chairman, this is their land and this is the case that I present to you.

Thank you very much for this opportunity.

Mr. HALEY. Thank you, gentlemen.

The next witnesses, as I understand, have a joint statement for the Aleut League. Mr. Flore Lekanof and Mr. Roger Connor.

**STATEMENTS OF FLORE LEKANOF, PRESIDENT, ALEUT LEAGUE,
AND ROGER G. CONNOR, ATTORNEY FOR THE ALEUT TRIBE, THE
ALEUT COMMUNITY OF ST. PAUL ISLAND AND THE ALEUT
LEAGUE**

Mr. CONNOR. I am Roger Connor, attorney for the Aleut Tribe, the Aleut community of St. Paul Island and the Aleut League, the Aleut League being a regional native association.

Mr. LEKANOF. I am Flore Lekanof, president of the Aleut League.

Mr. HALEY. Gentlemen, you may proceed.

Mr. CONNOR. Mr. Chairman, we have filed a written joint statement and in order to conserve time I would like to ask that this be made a part of the record without it being read.

Mr. HALEY. Without objection, it is so ordered.

(The statement referred to follows:)

**JOINT STATEMENT OF FLORE LEKANOF, PRESIDENT, ALEUT LEAGUE, AND ROGER G.
CONNOR, ATTORNEY FOR THE ALEUT TRIBE, THE ALEUT COMMUNITY OF ST. PAUL
ISLAND AND THE ALEUT LEAGUE**

I am Flore Lekanof of Anchorage, Alaska. I was born on St. George Island. I am president of the Aleut League which comprehends all of the villages within our region. I am a past president of the Alaska Federation of Natives and of the Cook Inlet Native Association. I am a member of the Governor's Task Force on Native Land Claims. I hold a B.A. degree in philosophy from Whitworth College and a M.A. degree in education from the University of Washington.

I am Roger G. Connor of Anchorage, Alaska. I am counsel for the Aleut Tribe, the Aleut Community of St. Paul Island, and the Aleut League. I have lived in Alaska since 1932. I was admitted as an attorney at law in 1955. For three years I was United States Attorney, First Division of Alaska, and from 1959 to 1961 I was Executive Assistant, Criminal Division, Department of Justice, Washington, D.C. I am a past president of the Alaska Bar Association.

Mr. Lekanof and I submit the following joint statement:

In order to conserve time and space in the record, we ask that our previous testimony before the Senate Committee on Interior and Insular Affairs on February 9, 1968, be incorporated by reference herein. (See Hearings, S. 2906, February 8, 9, and 10, 1968 pp. 252-264).

To summarize what we said in that previous testimony, the Aleuts are Alaska natives who occupied aboriginally a southwest portion of the Alaska Peninsula, including the Shumagin Islands, and all of the Aleutian Islands to Attu in the west.

The Aleuts have suffered substantial harms by acts and omissions to act on the part of the United States. They have been deprived of their possessory rights by reason of the withdrawal of most of their region for wildlife refuges and military reserves. Additionally, large areas have been made available to others for sheep ranching under grazing permits.

S. 2906 would provide an acceptable settlement of the land claim of the Aleut people. We participated in the drafting of this bill, and we endorse it. But there is one change which is desired by the Aleuts. This is the provision on the blood quantum necessary to be enrolled as a native under the bill.

The Aleuts have been in contact with Europeans and Americans for over 200 years. During this time intermingling of ethnic groups has occurred in varying extent. In some cases it is extremely difficult, and sometimes impossible, to determine the aboriginal blood quanta of particular Aleuts. In other cases the blood quantum may be less than one-fourth, yet the individual has been reared in a native culture and is regarded by the others as a native in every significant sense of the term. There is considerable opinion that such persons should be enrolled as natives under this act. See the remarks of Senator Ernest Gruening and Congressman Howard W. Pollock, Hearings, *supra*, pp. 254-257.

It is our understanding that the central tribal council of the Tlingit and Haida Indians has gone on record in favor of liberalizing these blood quantum provisions.

In the existing draft of S. 2906 it is provided in Section 516(b) that where there is an absence of proof of the precise blood quantum a test of how the person in question is regarded by the native group is used to determine enrollment. We feel this should be expanded to cover persons who are known to have less than one-fourth blood quantum but who otherwise fit that definition of native.

We would be glad to comment on any other aspects of this very important legislation.

Mr. CONNOR. The joint statement asks that the testimony Mr. Lekanof and I gave before the Senate Committee in February be made a part of the record and considered as if it had been testified to.

Mr. ASPINALL. Mr. Chairman, I, of course, object to Senate material being made a part of the record. We have access to it.

Mr. HALEY. We have access to the Senate record and the testimony.

Mr. CONNOR. Then all we ask is that it be considered by this committee.

Mr. HALEY. We will consider it.

Mr. CONNOR. Then the balance of our written statement deals with the question of blood quantum which was raised earlier and we will be glad to respond to questions on that.

We point out in here that in the case of the Aleutian region—and this would hold true also for other areas of Alaska—you have people in contact with Europeans and Americans for over 200 years during which a good deal of crossbreeding has occurred. Also you find very complicated cases, individually, when you go to certain regions of Alaska because the birth records and the church records are not always in order, or available, and even when they are, you cannot tell from the names or the data found in those records just what the blood quantity of a given person was in the ancestral line.

Take for example in the Aleutian Islands. The Aleuts were all given Russian names at an early date. The Russians married freely with the Aleuts. In fact, at one time before the Treaty of Cessions, the Aleuts were given a different status from other natives. That is, they were free men under the Russian czar. They had a status much higher than that of serfs or even ordinary citizens. What we are dealing with here is a long pattern of history which complicated the determination of blood quantum.

On the other hand, the Aleutian region is one of the most remote in Alaska even today and we find that there are people out there who might be slightly less than one-quarter blood, but they are living a completely Aleut way of life, as have their ancestors. They still speak the Aleut language. They still have all of the customs and folk ways of native people, and their material culture is that of an Aleut. That is, they fish and hunt for a living; they live in an Aleut community and when you want to look at the ugly side of the picture, they are still and have been in the past at various times, regarded as something of a separate group from that of the dominant culture. We are talking here about people who are fully accepted by their communities as being natives, rather than non-native. We do think there should be a liberalization of the provisions in the bill to cover this type of person. We don't think it will result in the expansion of the rolls vastly. We just think it would be more fair and equitable to let the Alaskan Native Commission, which is in the bill we have proposed, determine in close cases what to do.

That is the burden of our presentation on the blood quantum problem and I would like the privilege of making a few brief remarks about some of the other topics which have come up here earlier today, Mr. Chairman.

As to the question of whether the Treaty of Cessions extinguished title, we do have some judicial decisions which guide us in this area, as well as a lot of historical material that Congressman Pollock has referred to concerning the nature of the Russian occupation of Alaska.

First of all, the early Russian settlements there were without any particular legal authority or status from the Crown and it was not until 1799 that the Russian Emperor issued a charter for the first Russian-American company to go in and use the resources of Alaska. Even at that the charter was only in the nature of a franchise. There were successive charters issued. Altogether there were three of them, and the last charter expired a few years before the previous cession. It was never renewed and the Russian-American company was merely holding over more or less as a tentative will of the czar.

Furthermore, at the time of the second charter in about 1821, we find the czar laying down specific rules and these haven't the force of statute, of course, whereby the company itself was restrained from interfering with native possessory rights, property rights of any kind.

Lastly, there is the most significant memorandum which was sent from the Foreign Office of the Russian Government to Secretary Seward at the time of the Treaty of Cessions, which is signed by one called Kostlivtsov and this memorandum details at great length the fact that the Russian-American company did not dispossess the natives of its aboriginal occupancy. It had no intention to do so and had no legal authority to do so.

Furthermore, the memorandum points out that no title was ever granted by the sovereign to even those posts occupied by the Russian-American company. So when the United States took this country, it took it as it was, and there certainly had not been any extinguishment of title by the czar, or the Russian-American company, or anyone else. Therefore, Congress provided in the act of 1884 that whatever rights there might be would await a further determination of Congress. The Treaty of Cession has been a subject of argument and there are some

old cases in the U.S. district and circuit courts which imply there may have been an extinguishment. There is a quarrel about what some of the provisions mean, but there are provisions in the treaty which make it appear that there was an intention not to truncate any existing rights.

Lastly, the Court of Claims in the 1959 decision in the Tlingit-Haida case concerning liability simply rejected the argument of the Department of Justice that the Treaty of Cession had extinguished rights. The Department argued in that case though Congress gave the Tlingit-Haida jurisdictional acts, as a right of substantive law they were barred because of the Treaty of Cessions and the Court of Claims rejected it. I am confident that if this same question ever reached the other authoritative tribunals of the United States the same conclusion would be reached.

We have another very important consideration here too, and that is that under the Statehood Act there is a grant of 103 million acres to the State. I think the question was raised this morning, shouldn't the State try to deal with this problem in some fashion. Here we get into another very significant decision by the Court of Claims earlier in this year, in 1968. No, it was in 1967 in the Lipon Apache case where the Republic of Texas attempted to extinguish title to lands there before Texas entered the Union and when Texas was a sovereign nation presumably. Also the year after it entered the Union the State legislature took measures to extinguish Indian title. The United States stood by idly and let the Texans do it at the time. This was a source of liability in the Lipon Apache case and the Court of Claims said that only Congress could extinguish these. There wasn't a clear enough act by the previous sovereign and therefore aboriginal title endured and they were entitled to compensation. As the Court of Claims pointed out, the extinguishment occurred only by the sword, by purchases, by treaty and by positive act of Congress.

So I think, gentlemen, this is the posture in which the Alaska native land claims are at the moment.

As to the great bulk of Alaska, there has not been a positive taking, but we have this terrific problem because of the land freeze, the fact that the State was standing ready to select 103 million acres, and we have other collateral problems, such as the gradual encroachment of civilization upon the formerly native way of life. So that there may be a series of what I would characterize as creeping takings, some of them so minor and insignificant that it would not pay the claimant group to come to Congress and seek a jurisdictional act and then spend 25 or 35 years in a judicial process to establish liability to the modest amount of land involved. I think this is what is feared by many of the groups.

As to the date of taking in the Alaska situation, we have a number of executive withdrawals and congressional withdrawals which would establish a taking date on the lands involved there and as to a great part of the balance, there has been no taking. So I would submit if you are going to talk about land values you have to talk about the values obtained today. That is, if the Lipon Apache case means anything, and if the doctrine stated by the Court of Claims in that case means anything, certainly this argument of taking 1867 as the taking date is unacceptable, I think, as a matter of sound law, as well as logic.

One of the reasons this bill is being proposed is a recognition by the Secretary of the Interior and the native people and the State of Alaska that the claims process is of an arduous, expensive, frequently unjust route; that it often results in a judgment for dollars which, by the time they are given, have been inflated and therefore it is an unjust award, and because these awards do not carry interest in the interim.

I think for these reasons everybody would like to solve this problem and get on with the development of the State of Alaska.

If you are going to go to the claims route on these cases, it seems to me, in justice, you would have to leave the door open for all of the groups in Alaska to bring suit from time to time as their land is taken in the future. This could go on for another century. This could involve a program probably as tortuous, as difficult and as extensive in scope as all of the cases before the Indian Claims Commission from the other 48 States.

We are talking about potentially many hundreds of cases which would have to be litigated in Alaska. I think it is the recognition of this difficulty which is the source of this bill. In fact, Secretary Udall came to Alaska last November and suggested that a political settlement would be the best thing for all concerned. It was for this reason that the native leaders got together and drafted a bill which they thought would adequately compensate for the values involved in the taking of the land.

As to values, I might point out that the Secretary's bill specifies \$180 million and in the covering letter transmitting the bill, it is said this is based on the Tlingit-Haida award which averaged 43 cents an acre. But that award was based on values largely obtaining about the turn of the century.

If you took the Tlingit-Haida award of \$7 million at the time of taking, and it was the values of those days that were determined in those days, and if you merely compute straight interest of 6 percent on that amount, you boost it up to \$28 million, which in rough figures comes out at \$1.75 per acre. Yet we know that most of the lands in Alaska are even more valuable today than they were 70 years ago by reason of the compounding of the entire national economy, and of the less amount of land available generally. So I would suggest that values have risen considerably over that.

We do not feel a settlement of roughly \$1.50 or slightly more per acre is an unjust amount.

That, gentlemen, concludes the remarks we wanted to make about the earlier issues.

Mr. Lekanof would like to speak.

Mr. LEKANOF. Mr. Chairman, I submit to the committee two reports, one having to do with the educational aspects of land claims, and one on the housing. I would just like to ask that these be made a part of the record.

I would also like to submit on behalf of these two written statements materials which I think will be quite important. One is "Housing the Alaska Native" by Charles Abrams and the other one is the statement of the Alaska Housing Committee and the implementation plan.¹ Also, one on a study that I personally made on the education of the native people of Alaska.

¹ These two statements will be found in the files of the committee.

I would like to comment briefly on both of the topics. First of all, on education.

Mr. Chairman and members of the committee, we the members of the steering committee of the Alaska Federation of Natives are here to review with you some of the reasons why we feel that a bill for the settlement of the Alaska native land claims should be passed with our suggested amendments. I would like to present some information on education that is related to this subject.

The history of the Indian education programs has been less than desirable ever since its inception. The pendulum has been swinging back and forth between two philosophies—get the Indian off of the reservation; keep the Indian on the reservation—these philosophies have not been little felt in Alaska although we have only one reservation.

The present trend if not halted will drain all aggressive and talented young natives from the native country. This is caused by the distant high schools and vocational training programs not to mention the relocation concept.

I don't think that it is the intent of the Federal Government to destroy a way of life. As President Johnson recently stated that we must encourage some of our people to live on the farm, in rural America. He said also that he intends to go back to the farm himself. We must stop moving people to where the industrial development is and start moving the industry to the people. This is part of the answer to our problem in Alaska.

One of the serious problems on the native education is the separation that has been demanded between the child, the family, and the community. If this practice is permitted to continue we will negate the whole educational progress. We must adhere to the concept of the community school. We must demand and allow participation from the native people in all aspects of the educational process. The community must feel that it too is educating the child and to accept this transmission there must be both bilingualism and cultural pluralism.

When we mute a child's first language we are destroying the system by which the native child thinks and expresses his concepts and intelligence. The native child and the white child are supposed to compete in learning. The white child churns ahead in an undisturbed cognitive linguistic system. The native child must hold up significant cognition until he learns the master communications system—English. This is one of the main reasons why our native students are having a major dropout problem on the university level.

The schools in Greenland faced this problem many years ago. They taught the Eskimo in his own language for the primary grades of this school career then the Danish language was introduced in the fourth year.

There is still a further value in the native tongue and that is that it keeps the personality in a functioning whole and allows for an improved self-identity. One other minor contribution of the native tongue would be that it contributes toward more internalization and educational reasoning. In this case language is considered as culture.

As we examine the record, more and more evidence turns up that quite functionally the child with a whole culture has a greater chance of retaining a whole personality than a child from a lost or fractured

culture and an effective person operates out of a highly organized sense of self.

Given the opportunity through a generous native land claims settlement, we the native people of Alaska will support the following kinds of programs:

(1) That early childhood educational programs be made available to all communities in Alaska desiring such a program. Headstart classes have been operated successfully for 2 years in 52 native villages. There are over 200 villages desiring same. We recommend that the local native language be fully utilized in the preschool program.

(2) That priority be given to the local people to teach on the preschool level. This has been proven successful in the Headstart program. The local person more fully understands and appreciates the linguistic and cultural heritage of the village.

(3) That there be a continued operation of the teacher aide training program by the Anchorage Community College to prepare helpers in the elementary classroom. This program has been cosponsored by the BIA and Manpower Development Training Agency. Headstart teacher training program was also conducted by the same administration with funds provided by OEO.

(4) Immediate consideration should be given a plan to expand the program by including, in addition to the aide training as offered previously, two additional steps for teachers' assistants and teachers' associates.

More advanced training for them would meet the expressed needs of a number of Alaskan teacher aides. It would represent a realistic beginning for some who wish to become teachers but who could not now enroll in a continuous baccalaureate program.

Among educational institutions in the United States which have responded to a similar aide-inspired need is St. Petersburg Junior College in Florida, which offers a 1-year terminal career program for teachers' aides.

(5) That changes be made in the educational curriculum so that a youngster on the village level may be offered formal education through the 10th grade. This will allow the child to be with his parents for a longer period during his educational career. Many children and parents are psychologically upset by having to separate 9 months out of the year. Many family units are disturbed to the point of "non-return" during these absent periods.

(6) That regional high schools with 2 years of past high school years be made available in the following areas: Aleutian Islands, Bristol Bay, Bethel, Kotzebue, Barrow, Galena, Fort Yukon, Southeastern (Mount Edgecumbe), and Tok. This will allow students to go home for occasional visits or parents to visit at the school. This will make a secondary education more obtainable for those who would ordinarily drop out because of family and geographic problems. The 2 years beyond the high school will permit those students who are not collegebound to train in the fields appropriate to the regional area, such as electronics, heavy equipment operation and maintenance, building skills, fisheries, and so forth. This would also permit those who are collegebound to receive credits transferable to the college of their choice.

With this program we will see less and less academic failures among our native people.

(7) All available funds, State, Federal, or private, should be concentrated in the rural Alaska for adult education. We have seen some programs such as MDTA, OEO, BIA, and OJT, but there needs to be more of the same. We feel that there must be industrial development in the rural areas of Alaska and the adult education programs be directly related to such development. We see this as a means of providing a more productive worker and also a means of a more enlightened citizen.

(8) That the Federal funds now available for the education of native children be turned over to the State department of education for the purpose of having one administrator in education for all native children in Alaska. This move will save administrative costs by eliminating duplications in job positions. This would also put all rural Alaskan teachers on the same footing as far as salary, retirement, travel allowance, academic requirements, and vacations are concerned. This will also do away with the segregated educational system in Alaska. We feel that the State is just as much to blame for this problem as the Federal Government. This move must be "immediate," not "gradual."

(9) We propose a regional school board for the areas which will be served by a regional high school. This is not just an advisory concept. This move will give the rural people the notion that the schools are their schools. There will be more responsibility, concern, and interest.

(10) That the native leaders be involved fully in the conception of an overall educational plan for rural Alaska. In the past the native people have not been consulted in the development of an educational plan for them. Demonstration in Navajo education at Rough Rock, Ariz., has proven that, given choices,¹ the native people has a right to make a few mistakes too. After all, is not this the way of democracy?

Finally, education for education's sake is not enough. Economic and industrial development must go hand in hand with the education process. At one time in history the native people of Alaska enjoyed a meaningful livelihood in their own native culture. Since the coming of the Russian fur traders and later the U.S. Government, the native people have been exposed and educated in the Western European culture or what we might refer to today as the dominant American culture which is very much influenced by the Judaic-Christian philosophy. We must provide some means whereby a decent adjustment may be made to this new culture which the native people of Alaska have adopted without the psychological damage to the personality of the native people.

There must be not only the formal and informal education but the means, through economic and industrial development in the native country, for a new meaningful livelihood.

This is our hope through the generous settlement of the Alaska native land claims bill.

Mr. Chairman, members of the committee, I thank you for the opportunity of appearing before this committee.

¹ Estelle Fuchs, "Innovation at Rough Rock," Saturday Review, Sept. 16, 1967.

I would want to say briefly before closing here inasfar as the comments on the housing are concerned, I would want to adjust this. At one time in history the dwellings that the Alaska native people and the Indian people lived in were adequate to their culture. But we have imposed a new culture on these people. Since that time the housing and their dwellings have become inadequate. Through a generous settlement, through a bill such as we would propose with the amendments that have been suggested previously, it is hoped to make a more intelligent and acceptable adjustment to the culture and to the society in which we live today.

Thank you very much.

Mr. HALEY. Thank you.

Mr. LEKANOF. May I ask that the statement on housing also be included in the record?

Mr. HALEY. Without objection, it is so ordered.

(The statement follows:)

STATEMENT BY FLORE LEKANOF, MEMBER OF THE STEERING COMMITTEE, ALASKA
FEDERATION OF NATIVES

Mr. Chairman and members of the Committee, we, the members of the steering committee of the Alaska Federation of Natives, are here to review with you some of the reasons why we feel that a bill for the settlement of the Alaska Native Land Claims should be passed with the proper amendments suggested. At this time I would like to present some information on the Native Housing situation that are relative to this subject.

NATIVE DWELLING PRIOR TO THE INTRODUCTION OF THE WESTERN EUROPEAN CULTURE

To use as example one of the ethnic groups in Alaska, the Aleutian natives constructed several varieties of structures. One of these, the "Barabara," peculiar to the Aleuts was a large communal dwelling, resembling that of the Iroquois, which received considerable attention from various observers. The most important information on these structures are found in the Russian accounts. The most detailed and reliable report on the Aleut dwellings comes to us from the writings of Bishop Veniaminov:¹

"The former dwellings of the Aleuts, known by them as 'Uliagamakh,' were never separated as now, i.e., for each family apart; but always communal, in which lived a number of families (10-40), mostly related * * *. These communal dwellings were from 10 to 30 sazen (70 to 210 ft) and more in length, and from 4 to 7 sazen (28 to over 49 ft) in breadth; they say that in some of the settlements there used to be such dwellings over 280 feet in length. As far as I had the chance to see the traces of these former dwellings, it appeared that they nearly all ran in length from east to the west, and not always along the direction of the stronger winds."

"Well-to-do families made sometimes in addition special little rooms from the side of their subdivision, digging through the wall, where they preserved their property and food; and with parents having grown children of both sexes, they served for their bedrooms. The entrances into these little rooms were always tight, it is said that some of them were so ably disguised that it was impossible to see them; and in case of unexpected attacks by enemies the people hid in them; and awaited the enemy's departure."

"Besides his compartment in the communal house every man of a family had a special 'barabara' where he kept his hunting outfit and in which he usually stayed in the summer with his family living in the communal house only in the winter."²

CULTURAL TRANSITION AND NATIVE HOUSING

We are attempting to show that the Native people of Alaska lived in dwellings that were satisfactory to them and to their environment before the "white man"

¹ Ales Hrdlicka, *The Aleutian and Commander Islands and Their Inhabitants*, the Lisler Institute of Anatomy, 1945, p. 45.

² *Ibid.*, p. 47.

set foot on the native country. Same can be said in regards to the Indian people before the white man invasion of his country. With this introduction of the Judiac-Christian philosophy way of life the problem of housing began. This was first of all started with the family concept of the new philosophy—one man, one wife, one house idea. I am not saying that the idea is wrong but that the means to achieving it is wrong. The new philosophy did not provide the adequate means. As the result of this conflict we have the housing problem of the Native people of Alaska.

Abrams³ writes about this condition:

"The snow igloos still seen in the Canadian arctic and the Aleut's barbara (a sod house with driftwood timber supporting the roof) which had been the traditional shelter of these natives had long ago given way to the small frame houses one now sees in most of the villages; so, too, the summer tupek of skins has been replaced by the canvas tent used as a temporary shelter in areas where the game and fish are present. Vilhjalmur Stefansson, writing shortly after the turn of the century of an expedition into the arctic, records that up to about 30 years before his journey, the beaches around Point Barrow had been thickly strewn with driftwood which was harnessed by the Eskimo into the construction of his shelter. The houses were crude but were built so that not much fuel was needed to keep them warm. When the frames were put together, they were covered with earth to a thickness that made the shelters practically cold proof. They were entered through a long alleyway by a door that was never closed even during the winter, and the ventilating hole in the roof was always open so that a current of air circulated through the house at all times. For this kind of a house two or three seal oil lamps would keep the temperature at a uniform 60 to 70 degrees fahrenheit throughout the winter. But contact with another culture also induces emulation—for better or worse—and the contact with the white man according to Stefansson was for the worse—at least as far as his house was concerned.

"With the white men of the last half century there came to the Arctic the white men' lofty and commodious frame dwellings. Although these are thoroughly ill-adapted to the country, they soon became the fashion, and the Eskimo began to build their poor hovels in the best imitation they could make of the pretentious homes of the foreigners. The flimsy walls of these new dwellings admitted cold by conduction so that the seal-oil lamps were no longer sufficient for keeping them warm, and even the sheet-iron stoves in which driftwood could be burned had difficulty in keeping them at a comfortable temperature. Driftwood lay in apparently inexhaustible wind rows along the seashore, but these were the accumulations of centuries, which the Eskimo, having no use for wood as fuel, had allowed to grow. Now instead of being used as formerly only in the construction of the house frames and in the making of sleds and implements, the driftwood was used for fuel in an attempt to keep the flimsy new style house warm. The result was that the driftwood disappeared so rapidly that in thirty years, by the use of stoves, all of it is gone, from Point Hope to thirty miles east of Point Barrow. With the increasing scarcity of fuel the ventilation of the houses had to be curtailed gradually, so that the modern Eskimo house is practically sealed against fresh air. If there is a keyhole on the door you will find it stuffed with chewing gum." ⁴

As the result of the un-vented dwelling of the present day Native people we have record breaking statistics in ill-health with the pulmonary ailments leading the way.

It must be said that not only the coming of the white man as such prompted the Natives to adopt the new house but that the Educational philosophy directed from Washington played a very vital roll in accomplishing this folly. The idea was that a house that was not vertical is either "vulgar or degrading."

According to studies made by the Federal Field Committee of some 7,500 dwellings about 7,100 need replacement according to the Bureau of Indian Affairs an additional 344 new dwellings are dwellings that are needed annually because of population increases.⁵

On a regional basis, housing conditions vary somewhat as reported by the Bureau of Indian Affairs to Congressional Committee in 1966, but the uniformity of their reports is more pronounced than their variety!

"Southeastern: Except in one village the housing situation is most deplorable. All but a few homes in each locale are dilapidated and substandard.

³ Charles Abrams, *Housing the Alaska Native*, published by the Alaska State Housing Authority, February 1967, Anchorage, p. 10.

⁴ Vilhjalmur Stefansson, *My Life With the Eskimo*, the Macmillan Company, 1913, p. 91.

⁵ Federal Field Committee for Development Planning on Alaska, Report, Anch.

"Bristol Bay: Housing is the most pressing and serious problem for natives in the remote villages. Generally speaking, housing is substandard. It is inadequate on terms of rooms, condition and cleanliness.

"Southwestern: In general natives live in one-room houses made of those materials which are typically available—driftwood, lumber, plywood and logs.

"Northwestern: Most houses are one room construction without insulation and sanitation facilities."

According to the Federal Field Committee, in southwestern Alaska Surveys of ten villages (1961-1963) show 348 homes containing 524 rooms, an average of 1.5 rooms per house. With a surveyed population of 1,978 persons, the average per room is 3.8 persons—a somewhat larger number of persons per room that exists for average households (3.5) across the United States. Among the ten villages the extent of overcrowding ranges from 2.3 persons per room in Tanunuk to 5.2 persons per room in Chevak.

The director of the U.S. O.E.O. after visiting Nome in 1967 described its housing, "most of the houses are ramshackle, falling-down places. But even this city has a slum that is worse than the rest of the town (King Island Village) where 500 Natives live on the most abject poverty that I've seen anywhere—including Africa, Latin America, India, or anywhere else."

"WHAT TO DO?"

The attached statement of Alaska Remote Housing Committee along with the brief of the implementations plan is the type of a program that we support for Alaska Natives. This includes the so-called "Bartlett's Bill" for native Act of 1966 (S. 1915).

Given the opportunity through the Native Land Claims settlement the Native people would help themselves in solving their own housing problems. This is why the title to 40 million acres and the 500 million dollar settlement is so important. This is a moral issue. We must be given the opportunity to adjust decently to the dominant culture that has imposed itself upon us.

We submit to your staff a copy of *The Testimony Regarding Alaska Remote Housing Program* by Edwin B. Crittenden, Executive Director, Alaska State Housing Authority and *Housing The Alaska Native* by Charles Abrams.

Your prompt action towards the settlement of the Alaska Native Land Claims is necessary for the attitude of *self-respect* for the Native people of Alaska.

Mr. Chairman, members of the Committee, I thank you for the opportunity of appearing before you.

Mr. HALEY. Does that conclude your statement?

Mr. CONNOR. Yes, Mr. Chairman.

Mr. HALEY. The gentleman from Colorado.

Mr. ASPINALL. Mr. Chairman, I wish to commend the witnesses on the statements they have made, but I doubt very much that a great deal of this testimony is justification for what this committee is called upon to do in this particular. It is good history, it is a good statement of the conditions. But this committee handles only the land problems as such and claims problems as such. The matter of education, the matter of social development, the matter of health, those matters will have to be treated just as we would in any other part of the United States—they have to go to the other committees.

It may be background as to the claims of the Indians or claims of the natives, but it does not have anything to do as far as we are concerned with the equities of what the natives are entitled to insofar as the jurisdiction of this committee is concerned. I read your statement, Mr. Lekanof, before you gave it. I don't think you intended to imply that even the way the natives lived in Alaska before they tried to copy this new culture that came into their country was any more health providing than the homes and dwellings they have had since then. In other words, the rate of mortality was much greater in those early days because of the way they lived. From what records we have, if I have read my history correctly, of the bronchial troubles and so forth, than even

what we have at the present time, which is too bad, which I will admit. Is that not right?

Mr. LEKANOF. Mr. Connor will respond.

Mr. CONNOR. Mr. Aspinall, may I respond to that?

Mr. ASPINALL. I just want to get it in the record.

Mr. CONNOR. We have done considerable research in the Aleutian area and the anthropologists that have worked there have determined that the Aleuts enjoyed a very long lifespan. Many lived to be 100 years old. This is done by a study of the bones. The reasons ascribed to the long lifespan is the high standard of living they enjoyed in that region.

Mr. ASPINALL. We are talking about two different things. The number of Aleuts is very small compared to the rest of them. You were in more or less the temperate climate and the warmth of the Gulf Stream. I am talking about the natives who lived in the North where they barred themselves up, as the statement said, in secret places and put chewing gum in the keyholes in order to keep out the air. This is all understandable. I understand it. I just don't want this record to be misleading. I think we have made improvements up there. In fact, in the cases I was told about, when I was in Kotzebue that the health situations were much better than they were in previous years. I am hoping that in the last 16 or 17 years they were better than they were then. If not, the Health Department, not the Committee on Interior and Insular Affairs has neglected its job.

You folks are entitled to the same advantages for health and education and social development as any other part of the United States at the present time. Isn't that right?

Mr. CONNOR. That is correct, sir.

Mr. ASPINALL. So it should not come into this particular responsibility of this committee, unless you want to make the background to show your needs.

Mr. CONNOR. Mr. Aspinall, I think it demonstrates a couple of things. First of all, some people who are opposed to the native land claims say, "Look, these people should be merged into the dominant culture, or they already have been, so why should they be compensated."

Mr. ASPINALL. We've got that every place. You've got that in every nook of the American people. You have other people for whom perhaps we should not build any more houses and everybody should live outdoors year in and year out. I don't want to get into this argument.

Mr. CONNOR. It also demonstrates how the settlement and the use of the proceeds may relieve some of the Federal programs eventually through the self-determination of the native people themselves.

Mr. ASPINALL. That is right.

On the other hand, it makes no difference what line you get it out of. It all comes from the Federal Treasury. You folks are citizens of the United States. I want you to keep that in mind. It does not make any difference what your background is, your bloodstream or anything. You are citizens of the United States and you are entitled to all these other programs.

Mr. LEKANOF. Yes, Mr. Chairman, I think the important thing here is that we are asking an opportunity for a people who would decide on their own future; the concept of self-determination. At one time the native people enjoyed this type of living. They survived for over

2,000 years—in the case of the Aleuts for over 4,000 years by making their own decisions. As records indicate, they lived happily. They cannot do this today. They cannot even call the land on which they are squatting their own land. They have no title to it.

Mr. ASPINALL. That part is before this committee. That part is all right. But when you get into the question of health and education and so forth, you are getting into something else.

We make provision for those opportunities uniformly throughout the Nation. To get you to the place where you can enjoy that, that is something else.

Mr. LEKANOF. What I am saying is with the opportunity given to us through a fair land settlement the people will be given this opportunity then to be more participants in plans for better housing and for better educational programs than they are today.

Mr. ASPINALL. I have no quarrel with that as long as you talk about land. But when you get into the \$500 million, plus, program and you back it up with the needs of the people for education and health purposes, then I get just a little bit off the beam. That is all, Mr. Chairman. They made a good case for their position.

Mr. HALEY. May I say to my distinguished colleague from Colorado, you referred to people a little while ago who wanted to live outside all the year around, if anybody wants to do that they better move to Florida.

Mr. ASPINALL. They better not stay in my district, I can tell you that.

Mr. HALEY. Mr. Berry.

Mr. BERRY. Thank you, Mr. Chairman. I do not have too many questions. I want to suggest to Mr. Connor, however, that the Alaska purchase is not unlike the Louisiana Purchase. My State was included in the Louisiana Purchase. At that time the United States ostensibly bought this territory. In all of the cases that have gone to the Indian courts I think you will find that they based their settlement on the value at the time of taking. I believe that is correct.

Mr. CONNOR. That is correct.

Mr. BERRY. Rather than the present value.

Mr. CONNOR. Yes.

At the time of taking, the time they were divested of their lands. In the case of the Louisiana Purchase they were frequently pushed off at a very early date, as I recall. This would account for the early taking dates on which those awards were based.

Mr. BERRY. The settlements have been made in my State. Incidentally, South Dakota has at least half as many Indian people as you have in your State of Alaska and most of them are in my district. Two years ago it was my privilege to go to Alaska and we stopped at Fort Yukon and walked into the store. I couldn't tell any difference between Fort Yukon and Pine Ridge, in my congressional district. I mean one Indian area is just about like another Indian area.

Mr. POLLOCK. I think you were in one of our nicely developed villages. You ought to see some of them.

Mr. BERRY. I suspect that is true. I want to commend you, Mr. Lekanof, in your statement that the solution is in getting industry to the reservations. This is something that I have been fighting to get for

18 years, and I think this is the solution and answer to the problem. I think that is all, Mr. Chairman.

Mr. HALEY. The gentleman from Alaska.

Mr. POLLOCK. Thank you, Mr. Chairman.

Mr. CONNOR, I think one point you did not bring out but alluded to, perhaps assuming that the committee was aware of it, is that it is my understanding in the Court of Claims the judgment would be only a money judgment and not involve land under the normal situation. Isn't that so and here we have a different situation?

Mr. CONNOR. That is correct. It has been customary to just award money. The natives take the position that they would like to have some land and this is a valid form of settling the matter.

Mr. POLLOCK. I knew I would get a rise out of you.

Mr. ASPINALL. Of course. The last important bill we had before this committee was a bill for the Indians. That was their plea. They wanted 48,000 acres of land, too. The Indian Claims Commission left it wide open for this committee to make this determination.

Mr. POLLOCK. Yes, sir.

Earlier you gentlemen both alluded to the problem as we discussed earlier before you were witnesses about the one-quarter blood or more or less. What specific proposals do you have to meet the problem?

Mr. CONNOR. I could submit some suggested language. In the bill that we drafted, which is S. 2906, we put a provision in there that where a person cannot establish or where the evidence is not available to establish his blood quantum then the Alaska Native Commission would make a determination. The test would be whether he is regarded as a native by the community in which he lives or from which he emanates, and that his parents were so regarded. There would be the test. We are saying where you do know the blood quantum is less than a quarter, that some of these people would still be includable. In other words, expand it slightly. We already have a provision in there to take care of people who have difficulty in assembling proof. We just hope the Alaska Native Commission will make fair determinations in these cases.

Mr. POLLOCK. I wanted to get that in the record.

I believe it was brought out in the Senate testimony and I thought it should be here.

Mr. LEKANOF, there is one comment I would like to make about your presentation. It was a very, very excellent one. I wonder if you presented your education plan to the State of Alaska. Have you presented it to the Governor?

Mr. LEKANOF. No, this is the first time that the proposal has been given to anyone.

Mr. POLLOCK. As you know, the State is attempting little by little to take over the education process.

Mr. LEKANOF. We intend to turn it over.

Mr. POLLOCK. Mr. Chairman, in making the comment about the excellent presentation of Mr. Lekanof, I would like to observe on behalf of the committee that I think we have some very, very capable young native leaders who today have made an excellent and very eloquent presentation of their positions. We are very proud of them and we do think they are quite capable of running the affairs of their native groups. I am very pleased with them.

Mr. HALEY. I am sure that is true. They must be hardy, good people to live up there in that climate.

Mr. POLLOCK. I meant also intelligent.

Mr. HALEY. And they send good representation down here.

Mr. POLLOCK. Mr. Chairman, earlier I introduced most of the people. I believe in looking over my notes I failed to introduce Rev. Walter Soboleff from southern Alaska, one of the great leaders of our native people.

Mr. HALEY. Reverend, we are glad to have you down here. Take a look at the committee and Congress and pray for us.

The next witness is Mr. Charles Edwardsen. Will you give your name to the reporter and your residence and who you represent?

STATEMENT OF CHARLES EDWARDSSEN, JR., ESKIMO, BARROW, ALASKA

Mr. EDWARDSSEN. I am Charles Edwardsen, Jr., Eskimo, from Barrow, a student at Western Washington State College. I represent myself and the interests of my people.

Since my statement is quite lengthy, I would like to make a few comments.

Mr. HALEY. Without objection, the statement will be received and made a part of the record at this point in the proceedings, and you may comment.

(The statement follows:)

STATEMENT OF CHARLES EDWARDSSEN, JR., BARROW, ALASKA

I am Charles Edwardsen, Jr., Eskimo born and raised at Barrow, Alaska, and now a student at Western Washington State College at Bellingham, Washington, majoring in the fields of political science, economics, and sociology.

It was very essential for the colonists to have cooperation and friendship with the Indian at the time of European colonization. This was a necessary condition for colonists to gain a foothold in America.

As one historian put it, "The Indians were pressed remorselessly when their friendship became of less value than their land." The forms of taking were many, i.e., by cajolery, trade, and force. With the new European community came its institutions, social, economic, military and the technology which has been developed by Western man. This was the beginning of the destructive campaign against the primitive Indian. The most lethal weapon of the Europeans and their greatest ally was their diseases.

The historical development of European colonists was always at the expense of the American Indian. There was a period of tranquillity, as reported by Captain Arthur Barlow to Sir Arthur Raleigh, "We were entertained with all love and kindness and with as much bounty as they could possibly devise. We found the people most gentle, loving and faithful, void of all guile and treason, and such as life after the Golden Age." The Indians not only schooled the Pilgrims in the culture of maize and squashes, but taught them how to fertilize the hills with alewives from the tidal creeks.

Most people do not believe that the Indians had developed title to their land or ties with the land. This is completely misconceived because land and the Indians were bound together by ties of kinship and nature rather than by an understanding of property ownership. This conception is the very essence of Indian life.

The American policy toward the Indian was formalized by a Committee of the Continental Congress in October 1783:

"Indian Claims upon such lands, it has become necessary by the increase of domestic population and emigrations from abroad to make speedy provisions for extending the settlement of the territories of the U.S. and because the public creditors have been led to believe and have a right to expect that those terri-

tories will be speedily improved into a fund towards that security and payment of the National debt."

This Committee consisted of Mr. James Duane, Mr. Richard Peter, Mr. Daniel Carroll, Mr. Benjamin Hawkins and Mr. Arthur Lee. Although Thomas Jefferson felt that "No land shall be appropriated until purchased of the Indian native proprietors", yet that committee of Congress came out with "do not pay for lands."

This became a policy of the U.S. expansion program for the Northwest movement. This policy was altered by Chief Justice Marshall in the Cherokee case:

"The title of the Cherokee people to their lands is the most ancient proof and absolute unknown to Man, its date is beyond the reach of human recall its validity is confirmed by possession and enjoyment antecedent to all pretense of claim by any portion of the human race * * *. The Cherokee people have existed as a distinct national community * * * for a period extending into antiquity beyond the date and records and memory of man * * *. These attributes have never relinquished by Cherokee people * * * and cannot * * * be dissolved by the expulsion of the nation from its own territory by the power of the United States Government."

A nation which was founded on the principles of freedom and justice has violated its own principles. The point of violation is in the national structure of its own representation—that it was good to point a finger at the American savages. With its instructions of law, economics and the social adaptations, this very nation has violated its own principles. Because the national economy is based on appropriations from the land.

With this type of economic base and the existing political order it was advantageous to the United States to gain all lands possible at the cost of the American Indian. This is and was the National policy of our social, economic and political history. Although the Chief Justice of the United States of America ruled that social, economic and political justice towards the American Indian was necessary, he was ridiculed and laughed at by Americans and also by the President, and his rules were not enforced. With no appropriations for enforcement, Congress itself has and will have the responsibility for enforcement and authorization of expenditures. It was advantageous to the Congress regardless of the ruling of the Supreme Court to go on with what we now know as the American policy to the savages. So much for the historical development.

A question, why do we have the land problem in Alaska? As we all know the contract between the United States and Russia was approved by both nations at the cost of the aborigines of Alaska which were neither approached nor consulted at the time of the transaction.

A question, what have we done to protect the natives? The Organic Act of 1884 was passed by Congress with certain characteristics which involved the social, economic and political well-being of native Alaskans. Have we achieved the mandate of Congress of 1884? The answer to that is no. Today is 1968. The works and the international image and the prestige of the United States is at stake. The Organic Act stated that the lands of the Alaskan natives shall not be disturbed, and the Congress shall decide at a later day upon these lands and the rights of the Alaskan Eskimo, Indian and Aleut.

To brief the Congress on the social, economic and political development of Alaskan Natives: the first policy was military control. The policy of the military is to suppress the American Indian. This has been documented throughout American history. The second period was territorial government, which gave civil government to the white community of Alaska to suppress and oppress the native. Along with this government came the American institutions of churches, economic enterprise and political leadership. There was another mandate by Act of Congress on the passage of the Statehood bill. Alaska then became a full-fledged State, inheriting problems of its past, present and future policy on the American Indians.

What have we done in Alaska? Let us examine the side effects of our own social, economic and political institutions, with respect to the natives of Alaska. In the area of education, Congress appropriated \$25,000 and at the very beginning a principle was established: The education to be provided for the natives of Alaska shall fit them for the social industrial life of the white American population of the United States and promote their not-so-distant assimilation. As reported by the Department of the Interior, the children shall be taught in the English language, reading, writing, arithmetic, geography, history, physiology, temperance and hygiene.

What did they accomplish with this \$25,000? The general agent for education was Dr. Sheldon Jackson who was a prominent secretary of the Presbyterian missions. In the formulation of schools in Alaska the churches played a definite role. Alaska was divided into regions and certain responsibilities were given to the churches. The Carmel Mission along with Bethel was operated by the Moravian Church; the interior of Alaska was appropriated to the Roman Catholic Church schools based at Holy Cross and Nulato; the Seward Peninsula at Cape Prince of Wales was operated by the Congregational Church; Point Hope by the Episcopal Church; Point Barrow by the Presbyterian Church. Along with educational emphasis came the conversion of the savages of Alaska. This campaign was not easy because of the competition between the Shaumons and the missionaries. We must congratulate the churches, because they have christianized the Alaskan Native.

This was the first campaign of introducing the institutions of America at the cost of cultural losses to Alaskan natives. The churches have fully pacified the innocent savages of Alaska.

What is wrong with native education? Dr. Charles K. Ray, Professor of Education at the University of Alaska, had this to say: "Let us now end this survey of Eskimo education between the two World Wars by analyzing the defects which made it so inferior to elementary and secondary school education in the U.S. and militated so strongly against the Eskimo's attainment of social and economic equality with Alaskans."

We can discern four serious weaknesses:

- A. Poorly qualified teachers
- B. Poor teaching methods and unsuitable textbooks
- C. Excessive load on the teachers and inadequate supervision
- D. Inadequate school facilities

YEARS OF FORMAL SCHOOLING COMPLETED, 1960¹

[In percent]

	White	Nonwhite
Less than 5 years.....	1.5	38.6
12 years or more.....	63.2	17.4
4 or more years of college.....	11.4	1.2

¹ Roger and Cooley, Alaska's Population and Economy, vol. II, pp. 174-187.

Although now the State of Alaska has the responsibility of educating the Alaskan native, the BIA is operating 67 day schools and two boarding institutions in Southeastern Alaska. What has the State done to accomplish the taking over of the BIA schools? We have the Johnson-O'Malley program which gives the authority to the State of Alaska for the transfer of the schools.

What measures have been taken for acculturation of the Alaska Natives? One measure is the COPAN program under the leadership of Prof. Saulsbury. The goals of the program are as follows:

1. To orientate the student to college life.
2. To afford the student a deeper appreciation of his original culture and to better understanding of his adopted one, by helping him to objectively compare them.
3. To improve the student's ability to express his thoughts and feelings to others, to encourage individuality and assist each student to develop a sense of economy and self-respect.
4. To improve the student's perception of himself and his abilities.
5. To help him to choose realistic goals.
6. To enable each student to recognize his work as an individual and as a contributing member of the larger society.

At the first, fourteen students volunteered to participate under this program. As examples of some of the social, economic and political problems of their native communities, one student writing of prison noted "Jail was certainly better than the conditions at the place that was supposed to be my home." Another student stated "The Caucasians were more intelligent and had many opportunities but then they were also more greedy and selfish." One student talks of his home town. "Everything seems to be suffocating in the embrace of a season that last too long." Another student stated "you have to choose whether you are going to be white or native."

It has been a slow process of acculturation which Congress does not hear or feel—the social and political adjustments of one world to the other. I would like to quote a scholar from the COPAN project: “The ideas and experiences that will enable other traditional students to create the synthesis of their own culture and Western culture by enabling them to understand the strengths and weaknesses of both ways of life while at the same time increasing their own personal sense of confidence and self-worth.”

This has been a radical revolution from the old orientation of the United States of America policy that we are going to help the Indians. The American policy was and is “we have to do it for them.” This policy has not worked nor will it work. This has been the policy since the creation of the BIA in March of 1849.

Has the BIA failed? Or has America failed? The BIA has been a microcosm of American commitment to help or enable the American Indian. I cannot blame the Bureau officials but only the American citizens at large who have had this type of policy toward the American Indian. But BIA is its own creation and its commitment and answer to the social, economic and political development of the American Indian under the auspices of Congress.

Historically the Federal government has maintained a responsibility by act of law for the welfare of the American Indians. It was not until 1924 that the Indian citizenship bill was passed. It was not until 1934 that the Indian Reorganization Act was passed. This legislation provided for development of tribal self-government and extended the Federal trusteeship over Indian lands.

Another milestone was the Indian Claims Commission Act of 1946 which set up a special commission to hear Indian tribal claims, primarily land claims against the Federal government.

What was the role of BIA with respect to the Indian Claims Commission Act of 1946? The BIA had only one resource person, Mr. Charles Jones. Mr. Jones did not travel within Alaska to explain the Claims Act. As a result, the Native people in Alaska were unaware of the Act and very few claims were filed. Those that were filed are the result of individual teachers initiating the claims.

What was its effect on the Native communities? As a consequence of this fact few Alaskan native groups now have cases pending before the Indian Claims Commission. In fact, only the following filed claims prior to the deadline of 1951:

<i>Docket No.</i>	<i>Group</i>
171 (5 claims)-----	Tee Hit Ton Indians.
187-----	Natives of Chitina.
199-----	Athapascan Indians of Stevens Village.
200-----	Natives of Tatitlek.
278-----	Tlingit-Haida Indians.
284-----	Gambell and St. Lawrence Island Eskimos.
285-----	Unalakleet & Unaligmut-Malemut Eskimos.
286-----	Shugnak and Kowagmiut Eskimos.
287-----	Nisgah Tribe.
352 (3 claims)-----	Aleut Community of St. Paul Island.
369-----	Aleut Tribe, et al.
370-----	Natives of Palmer, Alaska.

Source: Report to the Secretary of the Interior by the Task Force on Alaskan Native Affairs, p. 65.

How has this legislation affected Alaska? Let us examine the Indian Reorganization Act and its effects on Alaska. There are thirty-three community stores that are Eskimo, Indian or Aleut owned and operated. In 1958 a congressional committee was appointed to investigate the Howard-Wheeler Revolving funds in Alaska. The findings were:

1. It has failed to establish any program in the schools, on the job or otherwise to train Indians or Eskimos to assume top managerial positions in what was supposed to be their own business undertaking.

2. It had failed to carry out the Howard-Wheeler Act objectives of fostering the broadening and diversification of the Indian and the Eskimo economic base.

These were criticisms of a senior economist, Dr. George Rodgers, which arose because of the remoteness from the scene and the limited first hand experience of personnel of the Washington office of the BIA, the retention by the office of control over many details of Native owned programs, and conflicts with sound administrative practices. These were the analysis of Dr. Rodgers, a senior research economist at the University of Alaska. But does this mean that the natives cannot manage their own affairs? I simply will state the recent developments of

the new social and economic institutions created by the native people of Alaska. (Analysis in a publication called "The Eskimo Administration in Alaska") "This sudden awareness on the part of the non-native Alaskan of the Eskimo and other native people, and the outburst of activities attempting to deal with their problems was no accident, but the culmination of a longer development process which raised the Eskimo from political importance to political power."

Traditionally living and functioning in small isolated groups, the Eskimo began to learn from the more politically experienced Southeastern Indians the importance of union. Regional Native organizations began to multiply around the rim of Alaska from the Northslope to the Gulf of Alaska and in the upper reaches of the Yukon and Tanana rivers for the purpose of protecting Native rights in land matters, protesting the adverse effects of the proposed two billion dollar Rampart hydro-electric project and demanding greater self determination for the residents of the Pribilof Islands.

But the land was a cause common to all and in October 1966 eight separate associations formed, consisting of Eskimos, Aleuts and Indians, joined together in a united front of the Alaska Federation of Natives. The self-determination of Alaska Natives has had recognition from the non-native community as a political force to reckon with. They are not only fully aware that they have a right to vote and otherwise participate in the political process, but they have found their political voice and an economic weapon which could prove more effective in advancing their causes than the economic boycott and violence used by the Negro minorities elsewhere.

The political and economic impact of the land freeze and the delay in the determination of the native land claims was immediate and far-reaching. The intent of the Alaska Statehood Act to provide the new State with income from the land resources during its critical period of initial development was thwarted. This is the answer to the problem "can the Native people manage themselves?"

WAR EFFORT AND JOBS

Let us examine the war effort and the role of Alaskan natives. We have experienced World War I and World War II and the Korean War and the War in Vietnam. The roll of the Native has had national significance. I would like to quote a letter from Defense Secretary Charles Wilson, to the Department of Health and Welfare in 1954. "Two battalions of Natives were organized for use as scouts throughout sparsely settled portions of the Territory of Alaska. The first battalion consisted of Eskimos from the Coastal plains between Barrow and Unalakleet and Dillingham. They are obviously the only military personnel who could in time of emergency live off the land and exist in this barren frozen territory. They have had considerable military training in camps and are considered the most valuable adjunct to the security of this entire area." Along with the war there was creation of service centers. These centers were at Barrow, Kotzebue, Unalakleet and Bethel. These centers were accessible by both land and air and in addition became hospital locations. This has had adverse effects on the Alaskan native. These adverse effects were a loss of traplines and a loss of 173,377 reindeer, which meant loss of livelihood. This was from 1941 to 1948. Other adverse effects were the introduction of liquor to the larger Native community and family breakdown of marriages because the Alaskan women were readily available to the white man. The war effort also had some positive effects, these effects were introduction of the native to the wage economy. In terms of manpower shortage during the war efforts, new skills were achieved by the Alaska native. I would like to quote *Eskimo Administration* Volume I by Dimond Jenness. "The Eskimo proved themselves steady laborers, cheerful in the face of hardships and willing to brave coldness and the stormiest weather. Some of them acquired new skills, they became proficient carpenters or they learned to operate diesel engine and heavy and light machinery." Native manpower was used in the establishment of military bases throughout Alaska.

Now let us come to 1968 and the role of Alaska Natives in our wage economy. What has happened to the cheerful hardworking native? I would like to quote from a publication called *Alaska Natives and Federal Hire*. "Their unemployment rate based on labor force estimates at about 16,500 is a staggering 60%. Being jobless these native Alaskans live in poverty and suffer its consequences."

Why did this happen? At the same time one good end would be served by increase of employment of Alaskan Natives. Another end would also be served by reduction of the enormous cost of transporting new employees and their families and household goods from other states to Alaska at an average of \$2,500 for new

employees and another \$2,500 to return the departing employee to his point of hire in another state. Another cost of outside recruitment is about one million dollars spent each year for those who continue on duty in Alaska but receive reemployment leave, and travel benefits popularly known as home leave.

HEALTH

What are the conditions of native health and how do they compare with the National average? What is the significance of Alaska's native health conditions to the National image? "There seems little doubt that the principle health problem is the high morbidity and mortality from acute infectious disease among infants and preschool children. Galstroenteritis, pneumonia and meningitis are the principle killers, accounting for twenty-nine out of sixty known deaths among children less than five years of age during 1965. The previous year, 22 percent of all hospital admissions were in this age group, an estimated ninety percent of which were for acute infectious diseases. After the three diseases listed above, chickenpox, bronchitis, otitis media, infectious hepatitis, impetigo, streptococcal sore throat, and upper respiratory illness are the most important causes of morbidity." (*Health Conditions among the Eskimos of the Yukon Kuskokwim Delta, Alaska* by Robert Fortune, M.D.)

Based on the best figure available for 1965 the infant mortality in the area was 118 per 1000 live births, compared with a U.S. Indian average of 42.9 (both for 1963). More significant, perhaps, is the fact that the Delta area has an infant mortality over twice that of Alaska natives as a whole. The postneonatal death rate (28 days through 11 months) for the area is a striking 96 per 1000, live births, about fourteen times the national average and nearly four times the Indian or Alaskan native rate. This figure portrays clearly the extraordinary role of infectious disease as a cause of infant deaths. Indeed over two-thirds of all deaths in the 0-4 year group in 1965 were known to be due to infectious diseases.

The next most significant health problem is the excessively high incidence of non-tuberculous respiratory disease. Lobar pneumonia, broncho-pneumonia, acute and chronic bronchitis, bronchiectasis, and upper respiratory infections account for more hospital admissions and hospital-patient days than any other type of illness. During 1964, 17% of admissions to the hospital were for a primary diagnosis of respiratory disease other than tuberculosis. Many other illnesses treated in the outpatient clinic or on village trips are respiratory.

Of these diseases, lobar pneumonia and bronchiectasis deserve special emphasis. Lobar consolidation of the lung is exceedingly common, especially in preschoolers. Although most cases respond well to antibiotic treatment, a significant number go on to complications such as empyema and bronchiectasis. This latter disease has only fairly recently been recognized to be widespread among Eskimo children. As yet the basic pathogenesis is unclear and further study of this interesting condition is warranted.

Tuberculosis called the 'Alaskan scourge' by the Parran Committee, has perhaps declined in relative importance as a health problem but still ranks a strong third. In 1947, Dr. Langsam of Bethel estimated that 50% of all cases seen at the hospital were complicated by tuberculosis. The average annual infection rate among children 0-3 years in 1949-51 was estimated at an astounding 24.6%, a situation virtually unparalleled in the medical literature. The Parran Report (1954) strongly recommended a crash attack on tuberculosis based principally on a program of ambulatory chemotherapy at home, utilizing isonized and PAS. This program was administered in the Bethel Area by the Arctic Health Research Center. By 1957, the average annual infection rate in 0-3 year-olds has dropped to 8.5%. From 1957-59, the Arctic Health Research Center carried on a controlled trial of isoniazid prophylaxis in twenty-eight villages in the Delta region. By 1960 the annual infection rate was a mere 1%, a striking tribute to the effectiveness of these control measures.

The tuberculosis epidemic has continued to abate until the present, although the disease still causes great economic hardship in the region. A reorganized and intensified attack on the problem in recent years promises to reduce its incidence even further. During the first nine months of 1965 twenty-one new sputum-positive cases were found, for an annual incidence rate of 262 per 100,000. Many other patients are screened for activity because of a suspicious chest film. Extrapulmonary tuberculosis is still seen but is becoming more uncommon. New cases of tuberculous meningitis, military tuberculosis, tuberculous pericarditis and Pott's disease have all been diagnosed during the past year.

A quote from the speech of Dr. Muschenheim, M.D. delivered before the Fourth National Conference on Indian Health, November 30, 1966: "Public Health Service which has worked so effectively in the past decade to improve the health conditions of American Indians, and which has so very much more still to do. Even among physicians and among medical educators there is as yet little appreciation of the magnitude and the scope of the assignment which the Public Health Service was given by the Congress, or of the manner in which the task is being performed and how it is supported. Medical colleges have not been as active as they might well be in seeking affiliations with this branch of the Public Health Service for joint programs of many kinds."

How will the Native Land Claims enable the native health conditions in Alaska? "As a nation, therefore, we have not only to support the Public Health services by providing it with adequate appropriations to perform its part of the task. We have also to recognize that the Indian Tribes have particular and specific claims on the national government. They hold such communal assets as they still possess as, for instance, reservation land by virtue of direct dealings in the form of treaties with the government of the United States. Some of the Native peoples who have little or nothing (as the Alaska Native villagers) are without property because they have been unable up to now to obtain any settlement of rights and claims which have been recognized in principle by the United States for a hundred years. Inasmuch as this conference is a health conference, rather than simply a medical conference, I make no apology for speaking on these matters which are sociological, economic and political, but which have such an important bearing on the health situation. While the American Indians are citizens of particular states, as well as of the United States, and are entitled to equal rights and services in the states in which they reside, as are other citizens, there is in addition a special relationship to the Federal government which is the consequence of history, and not just of the circumstance that the several tribes and Native groups constitute impoverished minorities in their respective regions of habitation. These problems are therefore necessarily complicated because, while the individual states have responsibilities for the welfare of their Indian communities which some of them, however, do not recognize, so also does the nation have a special direct responsibility to them morally and legally. This is well known of course, to legislators and to probably most of the citizens of States in which there are sizable organized Indian communities. It is not well understood however, by most people elsewhere or by average citizens, even in some of the states like New York state, in which there are some Indian reservations. A fair settlement of Alaskan Native Land Claims is not, though few people outside of Alaska appreciate this, a matter for Alaskans (Native and white) to settle among themselves. The territory of Alaska before it became a state, belonged by purchase to the United States, and the Federal government still holds most of the land. The ceding, under the Statehood Act, of something like 20 per cent of the land to the State of Alaska without having made any similar definite commitment of land to the Native inhabitants, leaves those no better off than they were before statehood. When the territory was purchased there was recognition that the indigenous population had claims and rights to land they used and required for their subsistence but these rights and claims were never defined. To my considerable surprise, I found in talking to several young Public Service officers in Alaska that they believed the Indians and Eskimos to possess large reservations in various parts of the state. As a matter of fact, however, there is only one very small true reservation in the whole state, settled by a group who came over to Annette Island from Canada. There are in addition two larger reserves, withdrawn from the Public domain for their use, but to which the natives do not have title. As I understand it, aside from small parcels in villages, few Alaskan Natives own any land, individually or collectively. One of the difficulties of Native Alaskans is that they do not hold titles of sufficient validity to enable them to obtain loans from the Federal Housing Authority for housing construction. The question of Alaskan Native land claims, and all that this involves with respect to housing and health, is a National question but it receives little national attention. Were people more fully informed I have little doubt that a decent and generous settlement would be made. Land problems and housing problems confront Indians of other states too with great difficulties. That their collective land holdings in many areas have dwindled largely through allotments and multiple heirships is, of course, well known. But the shrinking land base is of course, not the only cause of economic depression. The absence

of suitable alternatives to a hunting and limited farming economy and the difficulties in developing sources of money income are also well known.

I am never surprised but always dismayed when well-meaning but poorly informed people ask why do not the Indians integrate themselves more effectively into the general society. This question, so frequently asked, is disarming because to answer it appropriately requires a considerably longer explanation than most inquirers have the patience to hear. To reply simply that probably they'd rather not, or, contrariwise, that they do not have the opportunity to integrate would not, either way, properly answer the question. Nor would it be very informative to reply that for the most part they do not have the opportunity and that, in any case, they have strong attachment to their own cultural heritage and are understandably ambivalent in their reactions to the alien society which has engulfed them. This is, it seems to me, a reasonable statement of the case, but it is quite meaningless to anyone who is unfamiliar with the values on the one side of the equation, namely the character and equality of the cultural heritage to which Indians are attached. Therefore, if *we* wish to preserve the National image in which *we* see ourselves, namely of fairness, of beneficent interest in the powerless and the underprivileged and value in defining the specific character of mental health problems in Indian life, and the origins of the problems will be evident to anyone who reads the transcript of that conference."

THE ROLL OF THE STATE OF ALASKA'S EXPENDITURES, BY TYPE AND FUNCTION, 1965

Type/function	Expenditure	Percent of total
Total expenditure.....	\$196.3	
Education.....	47.8	24
Highways.....	78.1	39
Public welfare.....	6.6	3
Hospitals.....	6.6	3
Correction.....	4.5	2
Natural resources.....	6.5	3
Employment security administration.....	2.1	1
General control.....	6.7	3
Housing and urban renewal.....	9.7	4
Airports.....	8.7	4
Water transport and terminals.....	6	
Interest on general debt.....	3.0	1
Insurance trust expenditure.....	5.9	3
Miscellaneous.....	7.8	3

Source: Compendium of State Government Finance in 1965, U.S. Department of Commerce, Bureau of the Census, table 9.

What is the role of the Federal Government in Alaska in terms of fiscal appropriations of 1967?

AGGREGATE EXPENDITURE OF FEDERAL PROGRAMS FOR ALASKA, BY AGENCY, FISCAL YEAR 1967

Agency	Expenditure
Defense Department.....	\$320,734,500
Air Force.....	185,791,500
Army.....	104,755,000
Navy.....	30,188,000
Commerce Department.....	58,940,572
Health, Education, and Welfare.....	50,628,932
Independent agencies.....	49,416,841
Interior Department.....	46,921,576
Treasury Department.....	15,364,000
All others.....	23,972,185
Grand total.....	565,978,606

Source: News letter, Report from Washington, from the office of Senator E. L. Bartlett Feb. 4, 1966.

A BRIEF HISTORY OF RESOURCE EXTRACTION IN ALASKA

The native populace of Alaska was exploited by both European and American businessmen without establishing Native industries or leaving resources for use by the Natives. The economic activities were extraction of furs, minerals, and fish. Thus left a diseased native population, driven almost to the point of extinction for lack of subsistence. In the Arctic at the peak of the whaling years the total extraction of whales was appraised at \$14 million dollars, but as the supply of whales was cut off by the whites, the population data reflected the loss to the Natives of this needed resource:

POPULATION			
Place	1823	1863	1890
Point Barrow.....	1,000	309	100
Point Franklin.....	Large	(?)	None
Point Hope.....	2,000	(?)	350
Shishmaref Inlet.....	1,000-2,000	(?)	13

¹ Houses.

This is a classic example of past economic development policy of the European powers without consideration of the Natives of Alaska. The extraction of mineral wealth was the same. At that time the Native populace had no legal authority to secure mineral claims. Therefore, they were excluded from mineral activities because the Native Alaskans were not citizens of the United States. This was the policy of the United States until 1924 when the Native Citizenship Act was passed for Alaska. At that time all the enterprises were owned by the greater American community whose offices were at Seattle, Washington, and San Francisco. The same is true of our fishery extractions at the present time. I would like to quote Alaska Development Corporation's Annual Report; it can speak for itself:

GROWTH IN COMMODITY INDUSTRIES, BY VALUE OF PRODUCT

[In millions of dollars]

Industry	1960	1961	1962	1963	1964	1965	1966
Fisheries.....	96.5	128.7	126.5	104.7	125.0	166.5	185.0
Forest products.....	47.3	44.7	49.7	50.1	58.0	57.5	67.8
Minerals.....	20.6	17.8	18.8	35.2	35.5	147.6	34.7
Oil and gas.....	1.3	17.0	18.8	35.2	35.5	35.6	50.2
Agriculture.....	5.4	5.5	5.8	5.5	5.6	5.2	5.5
Furs.....	4.8	4.2	4.3	4.4	4.4	5.8	27.0
Total.....	175.9	217.9	233.7	232.6	264.0	318.2	350.2

¹ Reflects postearthquake construction.

² Largely an increase in unit prices.

Source: Alaska Development Corporation Annual Report.

As you can see the five hundred million dollars is completely justifiable, along with 40 million acres of land which the Alaska Federation of Natives is demanding. The Congress is going to ask how are you going to spend the money? What will you do with the land if you get it? I would like to ask the Congress how they have developed such an enterprising nation? The development of America has come about by having a sufficient land base. This formula of paying public debt was devised by Alexander Hamilton and his expertise. Social and political resources have not been made readily available to the Alaska Natives. This five hundred million dollars and 40 million acres will suffice for ordinary development among the Alaska Natives. The Federal government under the auspices of the Federal Insurance System has allotted the necessary legal business consultants and the available technological expertise to insure the proper social, economic and political development of those businesses which receive loans from the Federal government, thus making the Federal government the sole underwriter of our great industrial organizations. This form of expertise has not been made readily available to the Alaska Native. The Federal government provided necessary services such as electrical power, subsidizing high cost transportation and